



HOUSE BILL No. 5196

December 9, 1999, Introduced by Reps. Ruth Johnson, Law, Vear, Gilbert, Hager, Van Woerkom, Ehardt, Allen, Geiger, Pappageorge, Jellema, Cameron Brown, Middaugh, Richner, Mortimer, Julian, DeRossett, Garcia, Green, Rocca, Caul, Bovin, DeHart, Scott, Toy, Bisbee, Rivet, Schermesser, Hart, Jansen, Shulman, DeVuyst and Cassis and referred to the Committee on Health Policy.

A bill to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the

act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER I SHORT TITLE, SCOPE, DEFINITIONS

2 Sec. 1101. This act shall be known and may be cited as the
3 "food law of 2000".

4 Sec. 1103. The provisions of this act regarding the selling
5 of food shall be considered to include the manufacture, produc-
6 tion, processing, packing, exposure, offer, possession, and hold-
7 ing of any food for sale; and the sale, dispensing and giving of
8 food, serving, and the supplying of food in the conduct of any
9 food establishment.

10 Sec. 1105. As used in this act:

11 (a) "Adulterated" means food to which any of the following
12 apply:

13 (i) It bears or contains any poisonous or deleterious sub-
14 stance that may render it injurious to health except that, if the
15 substance is not an added substance, the food is not considered
16 adulterated if the quantity of that substance in the food does
17 not ordinarily render it injurious to health.

18 (ii) It bears or contains any added poisonous or added dele-
19 terious substance, other than a substance that is a pesticide
20 chemical in or on a raw agricultural commodity; a food additive;
21 or a color additive considered unsafe within the meaning of sub-
22 paragraph (v).

1 (iii) It is a raw agricultural commodity that bears or
2 contains a pesticide chemical considered unsafe within the
3 meaning of subparagraph (v).

4 (iv) It bears or contains any food additive considered
5 unsafe within the meaning of subparagraph (v) provided that where
6 a pesticide chemical has been used in or on a raw agricultural
7 commodity in conformity with an exemption granted or tolerance
8 prescribed under subparagraph (v) and the raw agricultural com-
9 modity has been subjected to processing the residue of that pes-
10 ticide chemical remaining in or on that processed food is, not-
11 withstanding the provisions of subparagraph (v) and this subdivi-
12 sion, not be considered unsafe if that residue in or on the raw
13 agricultural commodity has been removed to the extent possible in
14 good manufacturing practice and if the concentration of that res-
15 idue in the processed food when ready to eat is not greater than
16 the tolerance prescribed for the raw agricultural commodity.

17 (v) Any added poisonous or deleterious substance, any food
18 additive, and pesticide chemical in or on a raw agricultural com-
19 modity, or any color additive is considered unsafe for the pur-
20 pose of application of this definition, unless there is in effect
21 a federal regulation or exemption from regulation under the fed-
22 eral act, meat inspection act, poultry product inspection act, or
23 other federal acts, or a rule adopted under this act limiting the
24 quantity of the substance, and the use or intended use of the
25 substance, and the use or intended use of the substance conforms
26 to the terms prescribed by the rule.

1 (vi) It is or contains a new animal drug or conversion
2 product of a new animal drug that is unsafe within the meaning of
3 section 512 of the federal act, 21 U.S.C. 512.

4 (vii) It consists in whole or in part of a diseased, contam-
5 inated, filthy, putrid, or decomposed substance or it is other-
6 wise unfit for food.

7 (viii) It has been produced, prepared, packed, or held under
8 insanitary conditions in which it may have become contaminated
9 with filth or in which it may have been rendered diseased,
10 unwholesome, or injurious to health.

11 (ix) It is the product of a diseased animal or an animal
12 that has died other than by slaughter or that has been fed
13 uncooked garbage or uncooked offal from a slaughterhouse.

14 (x) Its container is composed, in whole or in part, of any
15 poisonous or deleterious substance that may render the contents
16 injurious to health.

17 (xi) A valuable constituent has been in whole or in part
18 omitted or abstracted from the food; a substance has been substi-
19 tuted wholly or in part for the food; damage or inferiority has
20 been concealed in any manner; or a substance has been added to
21 the food or mixed or packed with the food so as to increase its
22 bulk or weight, reduce its quality or strength, or make it appear
23 better or of greater value than it is.

24 (xii) It is confectionery and has partially or completely
25 imbedded in it any nonnutritive object except in the case of any
26 nonnutritive object if, as provided by rules, the object is of
27 practical functional value to the confectionery product and would

1 not render the product injurious or hazardous to health; it bears
2 or contains any alcohol other than alcohol not in excess of 1/2
3 of 1% by volume derived solely from the use of flavoring
4 extracts; or it bears or contains any nonnutritive substance
5 except a nonnutritive substance such as harmless coloring, harm-
6 less flavoring, harmless resinous glaze not in excess of 4/10 of
7 1%, harmless natural wax not in excess of 4/10 of 1%, harmless
8 natural gum and pectin or to any chewing gum by reason of its
9 containing harmless nonnutritive masticatory substances which is
10 in or on confectionery by reason of its use for some practical
11 functional purpose in the manufacture, packaging, or storage of
12 such confectionery if the use of the substance does not promote
13 deception of the consumer or otherwise result in adulteration or
14 misbranding in violation of the provisions of this act. For the
15 purpose of avoiding or resolving uncertainty as to the applica-
16 tion of this subdivision, the director may issue rules allowing
17 or prohibiting the use of particular nonnutritive substances.

18 (xiii) It is or bears or contains any color additive that is
19 unsafe within the meaning of subparagraph (v).

20 (xiv) It has been intentionally subjected to radiation,
21 unless the use of the radiation was in conformity with a rule or
22 exemption under this act or a regulation or exemption under the
23 federal act.

24 (xv) It is bottled water that contains a substance at a
25 level higher than allowed under this act.

26 (b) "Advertisement" means a representation disseminated in
27 any manner or by any means, other than by labeling, for the

1 purpose of inducing, or which is likely to induce, directly or
2 indirectly, the purchase of food.

3 (c) "Bed and breakfast" means a private residence that
4 offers sleeping accommodations to transient tenants in 14 or
5 fewer rooms for rent, is the innkeeper's residence in which the
6 innkeeper resides while renting the rooms to transient tenants,
7 and serves breakfasts at no extra cost to its transient tenants.

8 (d) "Color additive" means a dye, pigment, or other sub-
9 stance made by process of synthesis or similar artifice or
10 extracted, isolated, or otherwise derived, with or without inter-
11 mediate or final change of identity from a vegetable, animal,
12 mineral, or other source, or when added or applied to a food or
13 any part of a food is capable alone or through reaction with
14 other substance of imparting color to the food. Color additive
15 does not include any material that is exempt or hereafter is
16 exempted under the federal act. This subdivision does not apply
17 to any pesticide chemical, soil or plant nutrient, or other agri-
18 cultural chemical solely because of its effect in aiding, retard-
19 ing, or otherwise affecting, directly or indirectly, the growth
20 of other natural physiological process of produce of the soil and
21 thereby affecting its color, whether before or after harvest.
22 Color includes black, white, and intermediate grays.

23 (e) "Contaminated with filth" means contamination applicable
24 to any food not securely protected from dust, dirt, and, as far
25 as may be necessary by all reasonable means, from all foreign or
26 injurious contaminations.

1 (f) "Continental breakfast" means the serving of only
2 non-potentially-hazardous food such as a roll, pastry or
3 doughnut, fruit juice, or hot beverage, but may also include
4 individual portions of milk and other items incidental to those
5 foods.

6 (g) "Critical violation" or "critical item" means a viola-
7 tion of the food code that the director determines is more likely
8 than other violations to contribute to food contamination, ill-
9 ness to humans, or environmental health hazard.

10 Sec. 1107. As used in this act:

11 (a) "Department" means the Michigan department of
12 agriculture.

13 (b) "Director" means the director of the Michigan department
14 of agriculture or his or her designee.

15 (c) "Extended retail food establishment" means a retail food
16 establishment that does both of the following:

17 (i) Serves or provides an unpackaged food for immediate
18 consumption.

19 (ii) Provides customer seating in the food service area.

20 (d) "Federal act" means the federal food, drug, and cosmetic
21 act, chapter 675, 52 Stat. 1040, 21 U.S.C. 301 to 321, 331 to
22 333, 334 to 343-3, 344 to 346a, 347, 348 to 356c, 358 to 360,
23 360b to 360dd, 360hh to 363, 371 to 376, and 378 to 397.

24 (e) "Food" means articles used for food or drink for humans
25 or other animals, chewing gum, and articles used for components
26 of any such article.

1 (f) "Food additive" means any substance, the intended use of
2 which, directly or indirectly, results in or may be reasonably
3 expected to result in its becoming a component or otherwise
4 affecting the characteristics of any food if that substance is
5 not generally recognized among experts as having been adequately
6 shown through scientific procedures to be safe under the condi-
7 tions of its intended use. Food additive includes any substance
8 intended for use in producing, manufacturing, packing, process-
9 ing, preparing, treating, packaging, transporting, or holding
10 food and includes any source of radiation intended for any use.
11 Food additive does not include any of the following:

12 (i) A pesticide chemical in or on a raw agricultural
13 commodity.

14 (ii) A pesticide chemical to the extent that it is intended
15 for use or is used in the production, storage, or transportation
16 of any raw agricultural commodity.

17 (iii) A color additive.

18 (iv) Any substance used in accordance with a sanction or
19 approval granted before the enactment of the food additives
20 amendment of 1958, Public Law 85-929, 72 Stat. 1784, pursuant to
21 the federal act, the poultry products inspection act, Public Law
22 85-172, 71 Stat. 441, 21 U.S.C. 451 to 471, or the meat inspec-
23 tion act of March 4, 1907, Chapter 2907, 34 Stat. 1258.

24 (g) "Food code" means food code, 1999 recommendations of the
25 food and drug administration of the United States public health
26 service that regulates the design, construction, management, and
27 operation of certain food establishments.

1 (h) "Food concession" means a food storage, preparation, or
2 dispensing operation at a state or county fair.

3 (i) "Food establishment" means an operation where food is
4 processed, packed, canned, preserved, frozen, fabricated, stored,
5 prepared, served, sold, or offered for sale. Food establishment
6 includes a food processing plant, a food service establishment,
7 and a retail grocery. Food establishment does not include any of
8 the following:

9 (i) A charitable, religious, fraternal, or other nonprofit
10 organization operating a home-prepared baked goods sale or serv-
11 ing only home-prepared food in connection with its meetings or as
12 part of a fund-raising event.

13 (ii) An inpatient food operation located in a health facil-
14 ity or agency subject to licensure under article 17 of the public
15 health code, MCL 333.20101 to 333.22260.

16 (iii) A food operation located in a prison, jail, state
17 mental health institute, boarding house, fraternity or sorority
18 house, convent, or other facility where the facility is the pri-
19 mary residence for the occupants and the food operation is
20 limited to serving meals to the occupants as part of their living
21 arrangement.

22 (j) "Food processing plant" means a food establishment that
23 processes, manufactures, packages, labels, or stores food and
24 does not provide food directly to a consumer.

25 (k) "Food processor" means an operation that processes, man-
26 ufactures, packages, or labels food and provides the food other
27 than directly to consumers.

1 (1) "Food service establishment" means a fixed or mobile
2 restaurant, coffee shop, cafeteria, short order cafe, luncheon-
3 ette, grill, tearoom, sandwich shop, soda fountain, tavern, bar,
4 cocktail lounge, nightclub, drive-in, industrial feeding estab-
5 lishment, private organization serving the public, rental hall,
6 catering kitchen, delicatessen, theater, commissary, or similar
7 place in which food or drink is prepared for direct consumption
8 through service on the premises or elsewhere, and any other
9 eating or drinking establishment or operation where food is
10 served or provided for the public. Food service establishment
11 does not include any of the following:

12 (i) A motel that serves continental breakfasts only.

13 (ii) A food concession.

14 (iii) A bed and breakfast that has 8 or fewer sleeping
15 rooms, including sleeping rooms occupied by the innkeeper, 1 or
16 more of which are available for rent to transient tenants.

17 (iv) A bed and breakfast that has at least 9 but fewer than
18 15 rooms for rent, if the bed and breakfast serves continental
19 breakfasts only.

20 (v) A child care organization regulated under 1973 PA 116,
21 MCL 722.111 to 722.128, unless the establishment is carrying out
22 an operation considered by the director to be a food service
23 establishment.

24 (m) "Food warehouse" means a food establishment that stores
25 or distributes prepackaged food other than directly to
26 consumers.

1 Sec. 1109. As used in this act:

2 (a) "Imminent or substantial hazard" means a condition at a
3 food establishment that the director determines requires immedi-
4 ate action to prevent endangering the health of people.

5 (b) "Label" means a display of written, printed, or graphic
6 matter upon the immediate container of any article and includes a
7 requirement imposed under this act that any word, statement, or
8 other information appearing on the display also appear on the
9 outside container or wrapper of the retail package of the article
10 or be easily legible through the outside container or wrapper.

11 (c) "Labeling" means all labels and other written, printed,
12 or graphic matter upon an article, any of its containers or wrap-
13 pers, or accompanying the article.

14 (d) "License limitation" means an action by which the direc-
15 tor imposes restrictions or conditions, or both, on a license of
16 a food establishment.

17 (e) "License holder" means the entity that is legally
18 responsible for the operation of the food establishment including
19 the owner, the owner's agent, or other person operating under
20 apparent authority of the owner possessing a valid license to
21 operate a food establishment.

22 (f) "Misbranded" means food to which any of the following
23 apply:

24 (i) Its labeling is false or misleading in any particular.

25 (ii) It is offered for sale under the name of another food.

26 (iii) It is an imitation of another food unless its label
27 bears, in type of uniform size and prominence, the word

1 "imitation" and immediately thereafter the name of the food
2 imitated.

3 (iv) Its container is so made, formed, or filled as to be
4 misleading.

5 (v) It is in package form, unless it bears a label contain-
6 ing both the name and place of business of the manufacturer,
7 packer, or distributor and an accurate statement of the quantity
8 of the contents in terms of weight, measure, or numerical count
9 subject to reasonable variations as are permitted and exemptions
10 as to small packages as are established by rules prescribed by
11 the department.

12 (vi) Any word, statement, or other labeling required by this
13 act is not prominently placed on the label or labeling conspicu-
14 ously and in such terms as to render it likely to be read and
15 understood by the ordinary individual under customary conditions
16 of purchase and use.

17 (vii) It purports to be or is represented as a food for
18 which a definition and standard of identity have been prescribed
19 by rules as provided by this act or under the federal act, unless
20 it conforms to such definition and standard and its label bears
21 the name of the food specified in the definition and standard,
22 and, insofar as may be required by the rules, the common names of
23 optional ingredients, other than spices, flavoring, and coloring,
24 present in such food.

25 (viii) It purports to be or is represented to be either of
26 the following:

1 (A) A food for which a standard of quality has been
2 prescribed by this act or rules and its quality falls below such
3 standard unless its label bears, in such manner and form as such
4 rules specify, a statement that it falls below such standard.

5 (B) A food for which a standard or standards of fill of con-
6 tainer have been prescribed by this act or rules and it falls
7 below the standard of fill of container applicable, unless its
8 label bears, in such manner and form as the rules specify, a
9 statement that it falls below the standard.

10 (ix) It does not bear labelling clearly giving the common or
11 usual name of the food, if one exists, and if fabricated from 2
12 or more ingredients, the common or usual name of each ingredient
13 except that spices, flavorings, and colorings, other than those
14 sold as such, may be designated as spices, flavorings, and color-
15 ings, without naming each and under other circumstances as estab-
16 lished by rules regarding exemptions based upon practicality,
17 potential deception, or unfair competition.

18 (x) It bears or contains any artificial flavoring, artifi-
19 cial coloring, or chemical preservative unless the labeling
20 states that fact and under other circumstances as established by
21 rules regarding exemptions based upon practicality.

22 (xi) If a food intended for human consumption and offered
23 for sale, its label and labeling do not bear the nutrition infor-
24 mation required under section 403(q) of the federal act, 21
25 U.S.C. 343.

26 (xii) It is a product intended as an ingredient of another
27 food and, when used according to the directions of the purveyor,

1 will result in the final food product being adulterated or
2 misbranded.

3 (xiii) It is a color additive whose packaging and labeling
4 are not in conformity with packaging and labeling requirements
5 applicable to such color additive prescribed under the provisions
6 of the federal act.

7 (g) "Mobile food establishment" means a food establishment
8 operating from a vehicle or watercraft that returns to a licensed
9 commissary for servicing and maintenance at least once every 24
10 hours.

11 (h) "Mobile food establishment commissary" means an opera-
12 tion that is capable of servicing a mobile catering food
13 establishment.

14 (i) "Person" means an individual, sole proprietorship, part-
15 nership, corporation, association, or other legal entity.

16 (j) "Pesticide chemical" means any substance that, alone, in
17 chemical combination, or in formulation with 1 or more other sub-
18 stances, is a pesticide within the meaning of the federal insec-
19 ticide, fungicide, and rodenticide act, chapter 125, 86
20 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y,
21 and is used in the production, storage, or transportation of raw
22 agricultural commodities.

23 (k) "Principal display panel" means that part of a label
24 that is most likely to be displayed, presented, shown, or
25 examined under normal and customary conditions of display for
26 retail sale.

1 (1) "Public health code" means 1978 PA 368, MCL 333.1101 to
2 333.25211.

3 Sec. 1111. As used in this act:

4 (a) "Raw agricultural commodity" means any food in its raw
5 or natural state including fruits that are washed, colored, or
6 otherwise treated in their unpeeled natural form before
7 marketing.

8 (b) "Regulatory authority" means the department, the local
9 health department, or the authorized representative having juris-
10 diction over the establishment.

11 (c) "Retail food establishment" means an operation that
12 sells or offers to sell food directly to a consumer. Retail food
13 establishment includes both a retail grocery and a food service
14 establishment, but does not include a food processing plant.

15 (d) "Retail grocery" means an operation that sells or offers
16 to sell food to the consumers for off-premises consumption.
17 Off-premises consumption does not include take-out food intended
18 for immediate consumption.

19 (e) "Rules" means administrative rules promulgated under
20 this act pursuant to the administrative procedures act of 1969,
21 1969 PA 306, MCL 24.201 to 24.328.

22 (f) "Smoked fish rules" means regulation no. 285.569 of the
23 Michigan administrative code, promulgated under former 1968 PA
24 39.

25 (g) "Special transitory food unit" means a temporary food
26 establishment that is licensed to operate throughout the state

1 without the 14-day limits or a mobile food establishment that is
2 not required to return to a commissary.

3 (h) "Sulfiting agents" means any of the following:

4 (i) Sulfur dioxide.

5 (ii) Sodium sulfite.

6 (iii) Sodium bisulfite.

7 (iv) Potassium bisulfite.

8 (v) Sodium metabisulfite.

9 (vi) Potassium metabisulfite.

10 (i) "Temporary food establishment" means a food establish-
11 ment which operates at a fixed location for a temporary period
12 not to exceed 14 consecutive days.

13 (j) "Temporary license" means a written authorization issued
14 by the director to operate for a specified limited time period.

15 (k) "Transient tenant" means a person who rents a room in a
16 bed and breakfast for fewer than 30 consecutive days.

17 (l) "Vending machine" means a self-service device offered
18 for public use that, upon activation by a coin, token, card, key,
19 or paper currency, dispenses unit servings of food or beverages
20 without the necessity of replenishing the device between each
21 vending operation. Vending machine does not include any of the
22 following:

23 (i) A device that dispenses only bottled or canned soft
24 drinks; other packaged nonperishable foods or beverages; or bulk
25 ball gum, nuts, and panned candies.

26 (ii) A water-dispensing machine that is registered under
27 chapter IV.

1 (m) "Vending machine location" means the room, enclosure,
 2 space, or area in which 1 or more vending machines are installed
 3 and operated.

4 (n) "Wild game" means animals from their natural state and
 5 not cultivated, domesticated, or tamed.

6 Sec. 1113. A term defined in the food code has the same
 7 meaning when used in this act, except as specifically defined in
 8 this act.

9 Sec. 1115. The following acts and parts of acts are
 10 repealed 6 months after the date of enactment of this act:

11	<u>Year</u>	<u>Public Act No.</u>	<u>Compiled Law Sections</u>
12	1913	384	289.551 to 289.559
13	1952	228	289.581 to 289.592
14	1957	166	289.261 to 289.268
15	1968	39	289.701 to 289.727
16	1978	328	289.801 to 289.810

17 Sec. 1117. (1) Subject to subsections (2) and (3), this act
 18 takes effect 6 months after the date of enactment.

19 (2) Until 6 months after the effective date of this act,
 20 compliance with the standards of the design, construction, and
 21 equipment of a food service establishment approved under former
 22 sections 12901, 12902, 12903, 12904, 12905, 12905a, 12906, 12907,
 23 12908, 12910, 12911, 12912, 12913, 12915, 12916, 12921, and 12922
 24 of the public health code, MCL 333.12901, 333.12902, 333.12903,
 25 333.12904, 333.12905, 333.12905a, 333.12906, 333.12907,
 26 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12915,

1 333.12916, 333.12921, and 333.12922, is considered compliance
2 with this act.

3 (3) Beginning 6 months after the effective date of this act,
4 a food service establishment shall comply with the standards of
5 design, construction, and equipment established under this act.

6 Sec. 1119. (1) Except as rescinded, rules promulgated under
7 public acts repealed by this act retain authorization under this
8 act.

9 (2) The following rules are rescinded 6 months after the
10 date of enactment of this act:

11 (a) R 285.538 of the Michigan administrative code.

12 (b) R 285.549 of the Michigan administrative code.

13 (c) R 285.554 of the Michigan administrative code.

14 (d) R 285.556 of the Michigan administrative code.

15 (e) R 285.557 of the Michigan administrative code.

16 (f) R 285.558 of the Michigan administrative code.

17 (g) R 325.25101 through 325.26008 of the Michigan adminis-
18 trative code.

19 (3) Beginning 6 months after the date of enactment of this
20 act, R 285.553 of the Michigan administrative code does not apply
21 to any food establishments under this act except for any farm
22 crop storages exempt from the requirements imposed under section
23 7101.

24 Sec. 1121. This act does not divest the director of any
25 authority and powers available under part 24 of the public health
26 code, MCL 333.2401 to 333.2498, for the enforcement of this act.

CHAPTER II

POWERS AND DUTIES OF THE DEPARTMENT

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2
3 Sec. 2101. (1) The director shall provide for the adminis-
4 tration and enforcement of this act. The director may delegate
5 enforcement and administration of this act to certain local
6 health departments in the manner provided for in chapter III.

7 (2) The director shall investigate complaints and initiate
8 and conduct other investigations as he or she considers advisable
9 to determine violations of this act.

10 (3) The director may promulgate rules for the enforcement
11 and implementation of this act.

12 Sec. 2103. (1) A retail food advisory board is created
13 within the department to advise the director on the implementa-
14 tion of this act and on the promulgation of rules under this
15 act.

16 (2) The board shall contain at least 9 members appointed by
17 the director and serving 2-year terms with at least 4 members
18 representing the retail food industry, 2 members representing
19 local health departments, 2 members representing the general
20 public, and other members representing interests as considered
21 appropriate by the director.

22 Sec. 2105. (1) When necessary for the enforcement of this
23 act, the director may seize without formal warrant any food found
24 to be sold, held for sale, or exposed for sale in violation of
25 this act or rules promulgated under this act.

26 (2) If the director finds or has probable cause to believe
27 that any food is adulterated or so misbranded as to be dangerous

1 to public health or fraudulent, within the meaning of this act,
2 he or she shall affix to the food a tag or other appropriate
3 marking giving notice that the food is, or is suspected of being,
4 adulterated or misbranded and has been seized or embargoed. A
5 person shall not remove or dispose of the food tagged or marked
6 as embargoed or seized, by sale or otherwise, until permission
7 for removal or disposal is given by the director or a court of
8 competent jurisdiction.

9 (3) If food seized or embargoed under subsection (1) or (2)
10 is determined by the director to be adulterated or misbranded, he
11 or she shall cause a petition to be filed in circuit court in
12 whose jurisdiction the food is seized or embargoed for a com-
13 plaint for condemnation of the food. Seized or embargoed food
14 shall be destroyed at the expense of the claimant of the food,
15 under the supervision of the director, and the court may order
16 the payment of the costs and fees and storage and other proper
17 expenses by the claimant of the food or his or her agents.
18 However, if the court finds that adulteration or misbranding can
19 be corrected by proper labeling or processing of the food, after
20 entry of the order; payment of the costs, fees, and expenses; and
21 execution of a good and sufficient bond conditioned that the food
22 shall be so labeled or processed, the court may direct the food
23 to be delivered to the claimant for labeling or processing under
24 the supervision of the director. The claimant shall pay the
25 expense of the supervision. The food shall be returned to the
26 claimant of the food on the representation to the court by the
27 director that the food is no longer in violation of this act and

1 that the expenses of supervision have been paid. If the director
2 determines that the food so seized or embargoed is not adulter-
3 ated or misbranded, he or she shall remove the tag or other
4 marking.

5 Sec. 2107. (1) If the director finds any adulterated food
6 that the director declares to be a nuisance, the director shall
7 immediately condemn, destroy, or in any other manner render the
8 food unsaleable as human food.

9 (2) If adulterated or misbranded food is a nuisance, is dan-
10 gerous to the public health, or is fraudulent and requires the
11 director's supervision, or if the food establishment requests the
12 supervision of the director for sorting, destruction, recondi-
13 tioning, or other disposition, the food establishment that is in
14 possession of the food at the time of the seizure or embargo is
15 liable for the costs of such supervision.

16 Sec. 2109. If storage of seized food is not possible with-
17 out risk to the public health, the director shall order immediate
18 destruction of the food to be accomplished without delay by the
19 owner, operator, or person in charge of the food establishment.
20 The food shall be destroyed as specified in the order for
21 destruction.

22 Sec. 2111. (1) The director shall have free access at all
23 reasonable hours to any food establishment, including a vehicle
24 used to transport or hold food, for the purpose of inspecting
25 that food establishment or vehicle to determine if any of the
26 provisions of this act are being violated. The director may
27 secure samples or specimens of any food after paying or offering

1 to pay for such samples in order to determine whether any
2 provision of this act is being violated.

3 (2) The director may examine the records of the food estab-
4 lishment to obtain pertinent information about food, supplies,
5 and equipment purchased, received, or used by, or pertaining to,
6 persons employed by the food establishment or location.

7 Sec. 2113. (1) The director may order immediate cessation
8 of operation of a food establishment upon a determination that
9 continued operation would create an imminent or substantial
10 hazard to the public health.

11 (2) A food establishment ordered to cease food operations
12 under subsection (1) shall not resume operations until the direc-
13 tor determines, upon reinspection, that the conditions responsi-
14 ble for the order to cease operations no longer exist. The
15 director shall offer an opportunity for reinspection upon request
16 of the license holder of the establishment.

17 (3) If the director orders an immediate cessation of opera-
18 tion of a food establishment under subsection (1), the license
19 holder may request an administrative hearing.

20 Sec. 2115. If the director has reasonable cause to suspect
21 disease transmission by an employee of a food establishment, he
22 or she may secure a morbidity history of the suspected employee
23 and make other investigations as he or she considers necessary.

24 Sec. 2117. The department shall submit to the governor and
25 the legislature an annual report summarizing all judgments,
26 decrees, and court orders, which have been rendered by the
27 department under this act, including the nature of the charge and

1 the disposition thereof. The department may disseminate
2 information regarding food as it considers necessary to protect
3 the health of the consumer and the protection of the consumer
4 against fraud. This section does not prohibit the department
5 from collecting, reporting, and illustrating the results of the
6 investigations of the department.

7 Sec. 2119. (1) The department may promulgate rules to pre-
8 scribe criteria for food service sanitation programs by local
9 health departments. The department in promulgating these rules
10 shall seek the advice and counsel of local health departments and
11 the food service industry.

12 (2) The department shall periodically conduct comprehensive
13 evaluations of each local health department's food service sani-
14 tation program. The evaluations shall be based on criteria
15 developed by the department with input from local health depart-
16 ments and shall include a review of both of the following:

17 (a) The adequacy of sanitary conditions in the food service
18 establishments within the local health department jurisdiction.

19 (b) The competency and training of the food service inspec-
20 tion personnel.

21 Sec. 2121. (1) The director may issue a food establishment
22 license with limitations. License limitations may be imposed
23 based upon either of the following determinations:

24 (a) The site, facility, sewage disposal system, equipment,
25 water supply, or the food supplies, protection, storage, prepara-
26 tion, display, service, or transportation facilities are not

1 adequate to accommodate the proposed or existing menu or
2 otherwise adequate to protect the public health.

3 (b) Food establishment personnel are not practicing proper
4 food storage, preparation, handling, display, service, or trans-
5 portation techniques.

6 (2) The director shall promptly notify a license holder of
7 the imposition of a license limitation. The license holder shall
8 be provided an opportunity for an administrative hearing on the
9 issue of the imposition of the limitation.

10 Sec. 2123. (1) A person whose license has been limited by
11 the director may, at any time, request a reinspection of the food
12 establishment for the purpose of removing the limitation and
13 reinstating the full license.

14 (2) Based upon its reinspection, if the director determines
15 that the conditions for removal of the license limitation have
16 been met, he or she shall remove the limitation and reinstate the
17 full license.

18 Sec. 2125. (1) The department shall charge the following
19 fees for the following services:

20 (a) A reissuance of a duplicate license, \$15.00.

21 (b) A free-sale letter, \$25.00 per letter in an order and
22 \$5.00 per duplicate letter in the same order.

23 (c) An inspection of a food establishment when the inspec-
24 tion is a second reinspection of a food establishment that has
25 already been inspected and found to contain a critical violation
26 or the inspection is performed at the request of the operator,
27 \$60.00.

1 (d) A review and approval of training materials, \$60.00 per
2 hour.

3 (e) A special transitory food unit plan review, \$177.00.

4 (2) Fees collected under this section shall be deposited in
5 the general fund and credited to the department for enforcement
6 of this act.

7 (3) The services referred to in subsection (1)(d) and (e)
8 involve the formal review and approval procedure. The department
9 may provide informal review or answer questions without charging
10 a fee.

11 Sec. 2127. After a conference with the owner of a retail
12 food establishment for a repeated failure to correct a critical
13 violation, the director may require certain individuals to com-
14 plete manager food safety training for that food establishment.

15 Sec. 2129. (1) Upon request, the department may review and
16 issue approval of food safety training materials and food safety
17 training programs including, but not limited to, home-study pro-
18 grams and computer-assisted training. Approval of food safety
19 training materials and food safety training programs expires 3
20 years from the date of original issuance.

21 (2) To receive department approval, a food safety training
22 material shall be reviewed for and contain the following:

23 (a) Accuracy and consistency with this act and the food
24 code.

25 (b) Manager knowledge training that includes the knowledge
26 requirements of section 2-102.11 of the food code.

1 (3) The issuance date for each original certificate issued
2 under an approved food safety training program is the date the
3 individual successfully completes the examination. A certificate
4 expires 5 years from the date of original issuance. Any replace-
5 ment or duplicate certificate shall have as its expiration date
6 the same expiration date that was on the original certificate.
7 Certified individuals may be recertified by passing a food safety
8 certification examination or through an approved recertification
9 training program.

10 (4) An individual certified under a training program
11 approved under this section shall be recognized with full faith
12 and credit by a local unit of government throughout the state.

13 (5) This section does not prohibit any local legislative
14 body from implementing a food handler program, an employee health
15 certification program, or a manager certification program, pro-
16 vided it is not in conflict with this section.

17 Sec. 2131. (1) When the department determines such action
18 will promote honesty and fair dealing in the interest of consum-
19 ers, the department shall promulgate rules fixing and establish-
20 ing for any food or class of food a reasonable definition, stan-
21 dard of identity, and reasonable standard of quality and fill of
22 container.

23 (2) In prescribing a definition and standard of identity for
24 any food or class of food in which optional ingredients are per-
25 mitted, the department shall designate the optional ingredients
26 that are required to be named on the label.

CHAPTER III DELEGATION

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Sec. 3103. As used in this chapter:

(a) "Certified health department" means a county, district, or city health department that meets the criteria for certification of health departments established by this act and that is authorized by the director to enforce this act for retail groceries, food processing plants, or food concessions.

(b) "Foodborne illness outbreak" means an incident where any of the following occur:

(i) Two or more persons, not of the same household, have ingested a common food and have a similar disease, similar symptoms, or excrete the same pathogens and there is a time, place, or person association between these persons.

(ii) There is a single case of suspected botulism, mushroom poisoning, paralytic shellfish poisoning, or other rare disease.

(iii) There is a case of a disease or poisoning that can be definitely related to ingestion of a food.

(c) "Food service sanitation program" means the systematic activity of the department and a local health department for effective administration and enforcement of the food code and this act, including all of the following:

(i) Periodic inspections of food service establishments, temporary food service establishments, vending machines, and vending machine locations for compliance with law.

(ii) Support of recommendations for licensure with appropriate records.

1 (iii) Review of plans and specifications for new and
2 extensively remodeled establishments.

3 (iv) Educational activities.

4 (v) Investigation of reports of foodborne illnesses.

5 (vi) Other activities which may be necessary to assure
6 proper implementation of this act.

7 Sec. 3105. (1) The department shall delegate the authority
8 and responsibility for the enforcement of the requirements per-
9 taining to food service establishments contained in this act and
10 the rules promulgated under this act to local health departments
11 meeting the program criteria provided for in this act and rules
12 promulgated under this act. The local health departments shall
13 enforce this act and the rules promulgated under this act and may
14 delegate enforcement authority under an organization approved
15 pursuant to section 2431 of the public health code, MCL
16 333.2431. If a food service sanitation program is discontinued
17 or is revoked for failure to meet the program criteria, redelega-
18 tion to a local health department by the director of the program
19 under this section is not required. Local health departments
20 delegated authority under this chapter shall enforce this act and
21 rules promulgated under this act in the manner provided for in
22 part 24 of the public health code, MCL 333.2401 to 333.2498,
23 except that late fees under section 4113, administrative fines
24 under section 5107, and felony penalties under section 5107 are
25 specifically not delegated to the local health departments.

26 (2) When a food service establishment is a part of a retail
27 grocery or food processing plant and the retail grocery and food

1 processing plant are the predominant part of the food business as
2 determined by the department, authority and responsibility per-
3 taining to that establishment are not delegated under this
4 section.

5 (3) When a retail grocery or food processing plant is a part
6 of a food service establishment but the food service establish-
7 ment is the predominant part of the food business as determined
8 by the department, the authority and responsibility for the
9 entire establishment are delegated under subsection (1).

10 (4) Mobile and temporary food establishments that are pre-
11 dominantly food service establishments as determined by the
12 department are delegated to the local health departments under
13 this section. Mobile and temporary food establishments that are
14 predominantly retail groceries are not delegated under subsection
15 (1).

16 Sec. 3107. The director may delegate the authority and
17 responsibility for the enforcement of the requirements pertaining
18 to food processing plants, retail grocers, and food concessions
19 contained in this act and any rules adopted under this act to any
20 certified health department. The certified health departments
21 shall enforce this act and any rules promulgated under this act.

22 Sec. 3109. Local health departments that are delegated
23 authority by the director pursuant to this chapter are authorized
24 agents of the director for the purpose of implementing and admin-
25 istering this act and rules promulgated under this act.

26 Sec. 3111. The power and authority granted under part 24 of
27 the public health code, MCL 333.2401 to 333.2498, shall be

1 retained by local health departments delegated authority under
2 this act.

3 Sec. 3113. A county, city, village, or township shall not
4 regulate those aspects of food service establishments or vending
5 machines which are subject to regulation under this act except to
6 the extent necessary to carry out the responsibility of a local
7 health department to implement licensing provisions of chapter
8 IV. This chapter does not relieve the applicant for a license or
9 a licensee from responsibility for securing a local permit or
10 complying with applicable local codes, regulations, or ordinances
11 not in conflict with this act.

12 Sec. 3115. (1) A local health department shall promptly
13 review a license application for a food service establishment or
14 vending machine location to determine if the application is com-
15 plete and accurate. A local health department may return an
16 incomplete or inaccurate application to a license applicant and
17 request any additional information it considers necessary to
18 assure completeness or accuracy of the application.

19 (2) After a local health department determines that an
20 application is proper, complete, and accurate, it shall inspect
21 the proposed or existing food service establishment or vending
22 machine location to determine compliance with this act. The
23 inspection shall be conducted by the local health department
24 before it makes a recommendation to the department on the issu-
25 ance of a license.

1 (3) A local health department shall forward its
2 recommendation for approval of the license or approval with
3 limitation of the license to the department.

4 Sec. 3117. A local health department may apply procedures
5 for enforcement of this act that provide notice and opportunity
6 for a hearing equivalent in effectiveness to and which protect
7 the rights of the applicant or licensee comparable to the provi-
8 sions of chapters 4 and 5 of the administrative procedures act of
9 1969, 1969 PA 306, MCL 24.271 to 24.292.

10 Sec. 3119. (1) Except as otherwise provided for in subsec-
11 tion (2), upon submission of an application, an applicant for a
12 food service establishment license shall pay to the local health
13 department having jurisdiction the required sanitation service
14 fees authorized by section 2444 of the public health code, MCL
15 333.2444, and an additional state license fee as follows:

- 16 (a) Vending machine location fee..... \$ 2.50.
- 17 (b) Temporary food service establishment.. \$ 2.50.
- 18 (c) Food service establishment..... \$19.00.
- 19 (d) Mobile food service establishment..... \$ 2.50.
- 20 (e) Mobile food establishment commissary.. \$19.00.
- 21 (f) Special transitory food unit..... \$30.00.

22 (2) When licensing a special transitory food unit, a local
23 health department shall impose a fee of \$117.00.

24 (3) The state license fee required under subsection (1)
25 shall be collected by the local health department at the time the
26 license application is submitted. The state license fee is due

1 and payable by the local health department to the state within 60
2 days after the fee is collected.

3 (4) A school or other educational institution is exempt from
4 paying the fees in section 2444 of the public health code, MCL
5 333.2444, and this section but is not exempt from the other pro-
6 visions of this chapter. A charitable, religious, fraternal,
7 service, civic, or other nonprofit organization that has
8 tax-exempt status under section 501(c)(3) of the internal revenue
9 code of 1986 is exempt from paying fees under under this section
10 except for the vending machine location license fee. An organi-
11 zation seeking an exemption under this subsection shall furnish
12 to the department or a local health department evidence of its
13 tax-exempt status.

14 (5) The department shall adjust on an annual basis the fees
15 prescribed by subsection (1) by an amount determined by the state
16 treasurer to reflect the cumulative annual percentage change in
17 the Detroit consumer price index but not to exceed 5%. As used
18 in this subsection, "Detroit consumer price index" means the most
19 comprehensive index of consumer prices available for the Detroit
20 area from the bureau of labor statistics of the United States
21 department of labor or its successor. The adjustment shall be
22 rounded to the nearest dollar to set each year's fee under this
23 subsection, but the absolute value shall be carried over and used
24 to calculate the next annual adjustment.

25 (6) The local health department shall forward the license
26 applications to the department with appropriate recommendations.

1 Sec. 3121. (1) The department or a local health department
2 shall conduct inspections in compliance with this act.

3 (2) Records for all of the following shall be maintained by
4 a local health department:

5 (a) Applications for licensure.

6 (b) Operation licenses.

7 (c) Inspection reports.

8 (d) Pertinent correspondence.

9 (e) Plans and specifications.

10 (f) Administrative actions.

11 (g) Other applicable information relating to the operation
12 of each food service establishment.

13 (3) A local health department shall maintain a record of all
14 consumer complaints, the ensuing investigation, and the result of
15 the complaint.

16 (4) All department and local health department records shall
17 be retained in accordance with the records retention schedule of
18 the department.

19 Sec. 3123. (1) An unannounced compliance inspection of each
20 food service establishment shall be performed at least once every
21 6 months by a regulatory authority.

22 (2) A food service establishment which operates for 9 or
23 fewer months each year shall be inspected at least once during
24 the period of operation by a regulatory authority.

25 Sec. 3125. (1) Subject to subsection (3), a local health
26 department, with the approval of the director and based on
27 criteria developed by the department in consultation with local

1 health departments, may reduce the frequency of inspections of
2 individual food service establishments if the local health
3 department determines that a reduced inspection frequency will
4 not adversely affect food service sanitation practices within the
5 food service establishment.

6 (2) A food service establishment which, upon investigation,
7 is implicated in a foodborne disease outbreak or chemical intoxi-
8 cation shall be inspected by a regulatory authority in compliance
9 with section 3123 for not less than the next 12 months.

10 (3) A local health department shall not reduce the minimum
11 frequency of inspections of any food service establishment to
12 less than once each 12 months.

13 Sec. 3127. (1) The findings of an inspection of a food
14 service establishment shall be recorded on an inspection report
15 form approved by the director. The form shall identify those
16 items considered to be critical from a public health standpoint.

17 (2) The inspection report shall summarize findings relative
18 to compliance with the requirements of this act. The report form
19 shall be signed and dated by the local health department
20 representative.

21 (3) Upon completion of the inspection, a copy of the com-
22 pleted inspection report form shall be furnished to the person in
23 charge of the food service establishment. The person in charge
24 shall sign the report form acknowledging receipt.

25 Sec. 3129. (1) A local health department shall investigate
26 an allegation of foodborne diseases and poisonings or suspected
27 foodborne diseases and poisonings connected with food service

1 establishments within its jurisdiction and delegated authority
2 and shall promptly make a report of its findings to the
3 department.

4 (2) If an investigation indicates that a source of a food-
5 borne disease or poisoning was from a food processing, food stor-
6 age, or similar type of food establishment over which the depart-
7 ment has legal jurisdiction or responsibility, the local health
8 department shall immediately notify the director while the local
9 health department is completing the investigation.

10 Sec. 3131. (1) A local health department shall develop and
11 implement a communications system with other applicable govern-
12 mental agencies, individuals, and organizations including, but
13 not limited to, hospital emergency rooms and state and local
14 police. The communications system shall provide the means to
15 contact specific local health department employees and basic
16 information necessary to initiate a foodborne illness outbreak
17 investigation. The information provided in the communications
18 system shall be updated annually.

19 (2) Procedures for investigating suspected foodborne illness
20 outbreaks shall be implemented consistent with procedures con-
21 tained in the publication entitled "Procedures to Investigate
22 Foodborne Illness, 5th Ed.," prepared and published by the inter-
23 national association of food protection and incorporated by ref-
24 erence or an equivalent plan submitted to and approved by the
25 department.

26 (3) All information gathered during the investigation which
27 is not exempted from disclosure under section 13 of the freedom

1 of information act, 1976 PA 442, MCL 15.243, and shall be made
2 available to the owner, operator, or his or her employees to min-
3 imize the possibility of reoccurrence of the foodborne illness
4 and to assure compliance with the code and this act.

5 Sec. 3133. Laboratories capable of providing the necessary
6 analyses of food samples shall be utilized by a local health
7 department to assist in the conduct of a food service sanitation
8 program.

9 Sec. 3135. (1) The department shall make available to any
10 local health department an application form to be completed as a
11 request for certification. The application shall provide infor-
12 mation needed to substantiate the request to become a certified
13 health department.

14 (2) A local health department seeking certification shall
15 have sufficient trained administrative, inspection, and support
16 personnel and sufficient equipment to enforce applicable laws and
17 rules consistent with current state standards in all licensed
18 establishments within its jurisdictional boundaries.

19 (3) A certified health department shall demonstrate to the
20 department the ability to conduct inspections and related activi-
21 ties in accordance with the department's food inspection informa-
22 tion management system within prescribed time limitations uti-
23 lized by the department. Inspection, investigation, and legal
24 actions and related activities shall be reported to the depart-
25 ment on forms furnished by the department.

1 (4) A certified health department must be capable of
2 conducting necessary sampling and produce surveillance equal to
3 state standards.

4 Sec. 3137. (1) The department shall conduct a general
5 review and evaluation of reports and related data made by certi-
6 fied health departments under this act as often as considered
7 necessary by the department.

8 (2) An inspection quality assurance program consisting of
9 field evaluation of performed inspections conducted by the certi-
10 fied health department shall be routinely conducted by the
11 department at a ratio of approximately 1 per 100 inspections
12 made.

13 (3) A certified health department shall report annually to
14 the department a summary of all inspections, investigations, sam-
15 plings, legal actions, and any other actions of a significant
16 nature on a form furnished by the department. This report shall
17 be made annually on the basis of the state fiscal year.

18 (4) Review or evaluation disclosing adverse findings shall
19 be reported in writing by the department to the health officer of
20 the certified health department within 30 days after the review
21 or evaluation under subsection (1) is completed.

22 Sec. 3139. (1) If a certified health department fails to
23 meet the requirements established in this act or rules promul-
24 gated under this act, written notice of deficiencies shall be
25 furnished to the health officer of that certified health depart-
26 ment within 30 days after completion of the review or evaluation
27 under section 3139. This notice shall offer an opportunity to

1 the health officer of the certified health department for a
2 hearing with the director. If a hearing is not requested, certi-
3 fication issued under this chapter shall be revoked within 30
4 days following the notice to the health officer of the certified
5 health department. If a hearing is held and deficiencies are not
6 corrected within the time period specified in the hearing, certi-
7 fication shall be revoked within the time period specified in the
8 hearing.

9 (2) If requested by the health officer of the certified
10 health department in a written notice to the director, certifica-
11 tion issued under this chapter shall be revoked within 30 days of
12 receipt of the written notice.

13 (3) Revocation of certification issued under this chapter
14 does not restrict a health department from reapplication for
15 certification.

16 CHAPTER IV LICENSING

17 Sec. 4101. (1) Except as provided in section 4103, a person
18 shall not operate a food establishment unless licensed by the
19 department as a food establishment.

20 (2) Separate areas for food service or preparation located
21 in 1 building and operated under 1 management are considered to
22 be 1 food establishment and only 1 license is required.

23 (3) Except as otherwise provided in this act, a city,
24 county, or other local unit of government shall not adopt or
25 enforce licensing ordinances or regulations for persons regulated
26 under this act.

1 Sec. 4103. (1) An applicant shall submit an application for
2 a food establishment license at least 30 calendar days before the
3 date planned for its opening, the change of ownership, or the
4 expiration of the current license.

5 (2) Application for the license under subsection (1) shall
6 be submitted upon the forms furnished by the department and shall
7 contain the reasonable information required by the department to
8 process the application.

9 (3) An application for a mobile food establishment license
10 shall include all of the following information:

11 (a) The location and dates of the operation.

12 (b) The name and address of the commissary that will service
13 the applicant.

14 (4) Within 10 days after a change in the servicing commis-
15 sary, the mobile food establishment licensee shall submit an
16 affidavit containing the name and address of the new commissary
17 servicing the licensee.

18 (5) The director may issue a temporary food establishment
19 license.

20 Sec. 4105. (1) Except as otherwise provided for in subsec-
21 tion (2), a person, establishment, or organization that is 1 or
22 more of the following is exempt from the licensure requirements
23 under this act:

24 (a) Subject to subsection (2), an establishment licensed
25 under 1 of the following acts while conducting activities within
26 the scope of that act:

	<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Laws Sections</u>
1			
2	184	1913	445.331 to 445.341
3	222	1913	288.101 to 288.117
4	141	1939	285.61 to 285.82a
5	228	1959	286.371 to 286.379
6	158	1964	290.451 to 290.466
7	233	1965	288.21 to 288.29a
8	298	1968	288.321 to 288.334

9 (b) A produce stand that offers only whole uncut fresh
10 fruits and vegetables.

11 (c) Consumers or nonprofit cooperatives of consumers provid-
12 ing products only for their own use.

13 (d) Nonprofit cooperatives who are growers or producers
14 selling unprocessed products of their own production.

15 (e) Retail outlets for the sale of prepackaged honey or
16 maple syrup produced in Michigan if the outlet is operated by the
17 producer and the processing facility is licensed under this act.

18 (f) A temporary food establishment with no food preparation
19 using only single-service articles and serving only
20 non-potentially-hazardous food or beverage.

21 (g) A retail food establishment that does both of the
22 following:

23 (i) Only sells prepackaged, non-potentially-hazardous
24 foods.

25 (ii) Offers only an incidental amount of food, such as the
26 sale of single-service packages.

1 (h) A commercial fishing guide service that serves lunch to
2 a party of not more than 12 clients on or adjacent to a body of
3 water, river, or stream while pursuing, capturing, catching, kil-
4 ling, taking, or attempting to take fish. As used in this sub-
5 paragraph, "commercial fishing guide service" means a service
6 provided for a fee or other valuable consideration, regardless of
7 whether the fee or other valuable consideration is paid directly
8 or indirectly, to assist another person in pursuing, capturing,
9 catching, killing, taking, or attempting to take fish.

10 (i) A person owning or operating a device that dispenses
11 only bottled or canned soft drinks; other packaged nonperishable
12 foods or beverages; or bulk gum, nuts, and panned candies.

13 (2) Notwithstanding subsection (1)(a), a person operating as
14 or conducting activities the director considers to be a food
15 establishment must be licensed in the appropriate category under
16 this act.

17 (3) If food is prepared in a food service establishment
18 licensed under this chapter and the food is transported from the
19 food service establishment to a fixed temporary serving location,
20 the serving location is not required to be separately licensed
21 and is considered an extension of the food service establishment
22 if no food preparation is conducted at the serving location and
23 the food is transported and served by employees of the food serv-
24 ice establishment.

25 Sec. 4107. To qualify for a food establishment license, an
26 applicant shall do all of the following:

1 (a) Submit an application on a form provided by the
2 department.

3 (b) Be an owner of the food establishment or an officer of
4 the legal entity owning the food establishment.

5 (c) Comply with the requirements of this act and rules
6 promulgated under this act.

7 (d) Allow the director access to the proposed food estab-
8 lishment in order to determine compliance with the applicable
9 requirements of this act and rules.

10 (e) Pay the applicable license fees at the time the applica-
11 tion is submitted.

12 Sec. 4109. A license, other than a license for a temporary
13 food service establishment, expires at midnight on April 30 each
14 year. The department may issue a temporary food license for a
15 period not to exceed 14 days.

16 Sec. 4111. The department shall impose the following
17 license fees for each year or portion of a year:

18 (a) Retail food establishment: \$67.00.

19 (b) Extended retail food establishment: \$172.00.

20 (c) Food processor: \$172.00.

21 (d) Mobile food establishment: \$172.00.

22 (e) Vending: \$25.00.

23 (f) Temporary food establishment: \$25.00.

24 (g) Special transitory food unit: \$117.00.

25 (h) Mobile food establishment commissary: \$172.00.

26 (i) Food warehouse: \$67.00.

1 Sec. 4113. (1) The department shall impose, for a renewal
2 application postmarked or delivered in person beginning May 1 of
3 each year, a late fee of an additional \$10.00 for each business
4 day the application is late. The late fee for a new application
5 submitted after the establishment has opened for business is an
6 additional \$10.00 for each business day the application is late.
7 The total late fee shall not exceed \$100.00.

8 (2) The department shall not issue or renew a license until
9 the fee and any late fee have been paid. A hearing is not
10 required regarding the department's refusal to issue or renew a
11 license under this section.

12 (3) The department may waive the late fee for producers of
13 maple syrup, honey, and other seasonal agricultural products if
14 the license application is submitted not less than 30 days before
15 the applicant engages in processing, packing, freezing, storing,
16 selling, or offering for sale the food or drink described in this
17 subsection.

18 (4) The late fee shall be retained by any certified health
19 department or, in an area where there is no certified health
20 department, by the department.

21 (5) The department shall use the late fee for the adminis-
22 tration and enforcement of this act.

23 Sec. 4115. (1) A water bottler or water dispensing machine
24 owner shall register with the department each brand of bottled
25 water with a unique declaration of identity before the sale or
26 offering for sale of the water. The application for registration

1 shall be made on a form prescribed by the department and shall
2 include both of the following:

3 (a) The proposed label or placard for the water.

4 (b) For each year or portion of a year, a registration fee
5 of \$25.00 for each brand of water with a unique declaration of
6 identity and \$25.00 for each water dispensing machine.

7 (2) The registration required by subsection (1) expires
8 annually on April 30 and shall be renewed 30 calendar days before
9 expiration of the current registration.

10 (3) The department shall assess a late fee of \$25.00 for
11 bottled water or water from a water dispensing machine that is
12 sold or offered for sale without registration. A registration is
13 not effective until the late fee is paid.

14 Sec. 4117. (1) Except as provided in subsection (2), money
15 collected under this chapter by the department shall be credited
16 to the general fund of the state.

17 (2) A consumer food safety education fund is created as a
18 revolving fund in the department of treasury. The consumer food
19 safety education fund shall be administered by the department and
20 funded by adding \$3.00 to the fee for each food establishment
21 license in all categories except vending machines and in cases of
22 fee-exempt food establishments. The money in the fund shall be
23 used to provide statewide training and education to consumers on
24 food safety. An advisory committee consisting of at least 9
25 people representing consumers, industry, government, and academia
26 shall advise the department on the use of the funds. Money

1 remaining in the fund at the end of the fiscal year shall be
2 carried forward into the next fiscal year.

3 Sec. 4119. (1) Except as otherwise provided in subsection
4 (2), a person licensed as a food establishment under this chapter
5 shall keep a copy of the current license or temporary license
6 furnished by the department posted and exposed in a conspicuous
7 place for public inspection. A conspicuous place is the princi-
8 pal place where food business is transacted.

9 (2) In the case of vending machines, the name and address
10 and telephone number of the current vending machine location
11 operator shall be conspicuously displayed on each vending
12 machine.

13 Sec. 4121. Thirty days before a food establishment proposes
14 either of the following changes, a licensee shall notify the
15 regulatory authority having jurisdiction of that proposed
16 change:

17 (a) A change in the type of license even if the change would
18 not result in the change of the regulatory authority having
19 jurisdiction over the activity.

20 (b) A change in the type of license that would result in the
21 change of the regulatory authority having jurisdiction over the
22 activity.

23 Sec. 4123. A food establishment license is not transferable
24 as to the holder or the location.

25 Sec. 4125. (1) Before a food establishment license is
26 issued, the director shall determine if the applicant meets the

1 minimum requirements of this act and rules promulgated under this
2 act.

3 (2) After an opportunity for a hearing pursuant to the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328, the director may revoke or suspend a food establishment
6 license or a registration for bottled water issued under this act
7 for any violation of this act or a rule promulgated under this
8 act. A person whose registration for bottled water is revoked or
9 suspended shall discontinue the sale and offering for sale of the
10 bottled water until he or she complies with this act and the
11 director issues a new registration or removes the suspension.

12 (3) Based upon facts submitted by a person familiar with
13 those facts or upon information and belief alleging that an immi-
14 nent threat to the public health, safety, or welfare exists, the
15 director may summarily suspend a license or registration issued
16 under this act. A person whose license or registration has been
17 summarily suspended under this section may petition the director
18 to dissolve the order. Upon receipt of such a petition, the
19 director shall immediately schedule a hearing to decide whether
20 to grant or deny the petition to dissolve. The presiding officer
21 shall grant the requested relief dissolving the summary suspen-
22 sion order unless sufficient evidence is presented that an immi-
23 nent threat to the public health, safety, or welfare exists
24 requiring emergency action and continuation of the director's
25 summary suspension order.

CHAPTER V PROHIBITED ACTS AND PENALTIES

1 CHAPTER V PROHIBITED ACTS AND PENALTIES
2 Sec. 5101. (1) A person shall not do or cause to be done
3 any of the following:

4 (a) Manufacture, sell, deliver, hold, or offer for sale
5 adulterated or misbranded food.

6 (b) Adulterate or misbrand food.

7 (c) Receive in commerce food that is adulterated or mis-
8 branded and deliver or proffer the delivery of that food for pay
9 or otherwise.

10 (d) Sell, deliver for sale, hold for sale, or offer for sale
11 food unless that person holds a license issued under chapter IV.

12 (e) Disseminate a false advertisement.

13 (f) Refuse to permit entry or inspection, or to permit the
14 taking of a sample, as authorized by section 2111.

15 (g) Give a false guaranty or undertaking, except by a person
16 who relied on a guaranty or undertaking to the same effect signed
17 by and containing the name and address of the person from whom he
18 or she received the food in good faith.

19 (h) Remove or dispose of seized or embargoed food in viola-
20 tion of section 2105.

21 (i) Alter, mutilate, destroy, obliterate, or remove all or
22 part of the label or do any other act with respect to a food
23 while the food is held for sale resulting in the food being adul-
24 terated or misbranded.

25 (j) Forge, counterfeit, simulate, or falsely represent, or
26 without proper authority use any mark, stamp, tag, label, or

1 other identification device authorized or required by this act or
2 rules promulgated under this act.

3 (k) Permit filthy or insanitary conditions to exist in a
4 food establishment in which food intended for human consumption
5 is manufactured, received, kept, stored, served, sold, or offered
6 for sale.

7 (l) Falsely identify a country, state, or other place of
8 origin of food on a label, tag, or other document with intent to
9 deceive or defraud.

10 (m) Fail to establish or maintain any record or make any
11 report required under this act or the federal act, or refuse to
12 permit access to or verification or copying of any such required
13 record.

14 (n) Interfere with the director in the conduct of his or her
15 responsibilities under this act.

16 (o) Make a false statement, representation, or certification
17 in any application, report, plan, or other document that is
18 required to be maintained under this act or rules promulgated
19 under this act.

20 (p) Remove a tag, seal, or mark placed by the director.

21 (q) Operate without a license, registration, permit, or
22 endorsement.

23 (r) Violate a provision of this act or a rule promulgated
24 under this act.

25 (2) Each day a violation of this section occurs is a sepa-
26 rate violation of this section.

1 Sec. 5103. (1) If a food is alleged to be misbranded
2 because the labeling is misleading or if an advertisement is
3 alleged to be false because it is misleading, then the determina-
4 tion of whether the labeling or advertisement is misleading shall
5 take into account, among other things, not only representations
6 made or suggested by statement, word, design, device, sound, or
7 any combination thereof, but also the extent to which the label-
8 ing or advertisement fails to reveal facts material in the light
9 of such representations or fails to reveal facts material con-
10 cerning consequences that may result from the use of that food
11 under the conditions of use prescribed in the labeling or adver-
12 tisement thereof or under such conditions of use as are customary
13 or usual. A label, labeling, or advertising in compliance with
14 the federal act is not considered a violation of this act.

15 (2) A publisher, radio-broadcast licensee, agency, or medium
16 for the dissemination of an advertisement, except the manufactur-
17 er, packer, distributor, or seller of the article to which a
18 false advertisement relates, is not liable under this section for
19 the dissemination of false advertisement unless he or she has
20 refused to provide, upon request of the director, the name and
21 post office address of the manufacturer, packer, distributor,
22 seller, or advertising agency who caused the dissemination of the
23 advertisement, or unless he or she has refused, upon the request
24 of the director, to cease dissemination of the false
25 advertisement.

26 Sec. 5105. (1) Upon finding that a person violated a
27 provision of this act or rule promulgated under this act, the

1 director may impose an administrative fine of not more than
2 \$1,000.00 and the actual costs of the investigation of the
3 violation.

4 (2) Any administrative fines and costs collected under this
5 section shall be paid to the state treasury and credited to the
6 general fund.

7 Sec. 5107. (1) Except as otherwise provided under this act,
8 a person who violates any provision of this act or rules promul-
9 gated under this act is guilty of a misdemeanor and shall be pun-
10 ished by a fine of not less than \$250.00 or more than \$5,000.00
11 or by imprisonment for not more than 90 days, or both.

12 (2) Notwithstanding the other provisions of this act, a
13 person who knowingly violates section 5101(1)(b) or (l) is guilty
14 of a felony punishable by imprisonment for not more than 4 years
15 or by a fine of not more than \$25,000.00 plus twice the amount of
16 any economic benefit associated with the violation, or both.

17 (3) If a violation results in a conviction under this act,
18 the court shall assess against the defendant the costs of the
19 department's investigation. The assessment for costs of investi-
20 gation shall be paid to the state treasury and credited to the
21 department for the enforcement of this act.

22 Sec. 5109. When a violation of section 5101(1)(k) occurs
23 which is not suspected of threatening the safety of food intended
24 for human consumption, the department shall provide a person
25 owning or operating the food establishment a written report of
26 the violation before subjecting persons to the penalties provided
27 in this act.

1 Sec. 5111. In addition to the remedies provided for in this
2 act, the department may apply to the circuit court for, and the
3 court shall have jurisdiction upon hearing and for cause shown, a
4 temporary or permanent injunction restraining any person from
5 violating any provision of this act or rules promulgated under
6 this act irrespective of whether or not there exists an adequate
7 remedy at law.

8 CHAPTER VI STANDARDS FOR FOOD ESTABLISHMENTS

9 Sec. 6101. (1) Chapters 1 to 8 of the food code are incor-
10 porated by reference except as amended and modified as follows:

11 (a) Section 3-401.11(B) is modified so that the oven temper-
12 ature for high humidity oven temperature reads "66°C (130°F) or
13 higher".

14 (b) Where provisions of this act and rules promulgated under
15 this act specify different requirements.

16 (2) The director, by promulgation of a rule, may adopt any
17 changes or updates to the food code.

18 (3) The annexes of the food code are considered persuasive
19 authority for interpretation of the food code.

20 Sec. 6103. (1) The following food establishments are exempt
21 from the requirement for plan review and approval specified in
22 section 8-201.11 of the food code:

23 (a) A temporary food establishment.

24 (b) A retail grocery.

25 (2) The plan review exemption for a retail grocery in sub-
26 section (1) does not apply to the operation of a food service
27 establishment within a retail grocery. For purposes of this

1 section, a deli within a retail grocery is not considered a food
2 service establishment unless it provides seating for the
3 customers.

4 Sec. 6105. (1) A person seeking approval of plans and spec-
5 ifications for a food establishment shall submit a transmittal
6 letter with the plans and specifications. The letter shall iden-
7 tify and summarize the plans or projects and shall indicate the
8 owner, operator, or designated agent.

9 (2) An applicant shall submit any required fees, as autho-
10 rized by section 2444 of the public health code, MCL 333.2444, or
11 this act.

12 (3) The director may reject the plans for a proposed food
13 establishment if any of the information required by the food code
14 is not included, is incomplete, or is inaccurate.

15 Sec. 6107. (1) Upon receipt of plans and specifications,
16 the director shall review the plans and specifications as soon as
17 practicable to determine their completeness and adequacy. If a
18 submission of complete plans and specifications is not reviewed
19 within 30 business days of receipt, the plans and specifications
20 will be considered complete and adequate. Thereafter, construc-
21 tion may proceed without the director's authorization. Approval
22 of the plans and specifications by operation of law does not
23 relieve the license applicant or license holder from compliance
24 with other provisions of this act.

25 (2) If the director determines that plans and specifications
26 are incomplete or inadequate, or both, he or she shall notify the
27 license applicant or license holder in writing and shall request

1 the submission of revised plans and specifications with
2 appropriate corrections or additions. The director shall not
3 approve the plans and specifications until he or she determines
4 that the plans and specifications are complete and adequate and
5 that the food establishment is designed in accordance with the
6 food code and this act.

7 (3) Upon a determination by the director that the plans and
8 specifications are complete and adequate, the director shall mark
9 the plans and specifications showing approval and the date of
10 approval, shall notify the license applicant or license holder in
11 writing of the approval, and shall authorize construction, con-
12 version, alteration, or remodeling of the food establishment.

13 (4) Approval of plans and specifications by the director and
14 authorization for construction pursuant to the food code, this
15 act, and rules promulgated under this act expire if construction,
16 conversion, alteration, or remodeling has not commenced within 1
17 year from the date of approval or has been interrupted for 1 year
18 or more since the date of approval. A license applicant or
19 license holder may apply in writing to the director for an exten-
20 sion of the approval and construction authorization before the
21 approval expires. The request for extension shall identify the
22 project for which the approval and construction authorization
23 were originally granted and the reason for requesting the
24 extension. The director may require modification of the plans
25 and specifications to incorporate updated food sanitation prac-
26 tices or requirements, where applicable, unless the license
27 applicant or license holder has entered into binding agreements

1 or contractual obligations which cannot be canceled or modified
2 without substantial loss to the license applicant or license
3 holder as determined by the director.

4 (5) The approved plans and specifications shall be located
5 on-site during construction and shall be available for inspection
6 by the director.

7 Sec. 6109. The director may attach any condition to an
8 approval of plans and specifications granted under section 6107
9 that he or she considers necessary to assure proper construction,
10 conversion, alteration, or remodeling of a food establishment or
11 portion of the food establishment.

12 Sec. 6111. (1) A license applicant or license holder shall
13 submit in writing to the director a change in approved plans and
14 specifications. Written approval must be obtained before con-
15 struction under the approved plans and specifications.

16 (2) Upon request of the director, a license applicant or
17 license holder shall submit as-built plans, clearly showing the
18 work as constructed.

19 Sec. 6113. (1) The director may rescind his or her authori-
20 zation for construction, conversion, alteration, or remodeling of
21 a food establishment if he or she determines that the license
22 applicant or license holder is not undertaking construction in
23 accordance with approved plans and specifications. The director
24 shall notify the license applicant or license holder before
25 rescission of construction authorization, advise him or her of
26 required corrective action, and afford him or her the opportunity
27 to take any required corrective action.

1 (2) The director shall order the license applicant or
2 license holder in writing to cease construction, alteration, con-
3 version, or remodeling activities if the applicant or license
4 holder does any of the following:

5 (a) Fails to submit required plans and specifications for
6 the construction, alteration, extensive remodeling, or conversion
7 to use as a food establishment.

8 (b) Fails to construct, alter, extensively remodel, or con-
9 vert a food establishment in accordance with plans and specifica-
10 tions approved by the director.

11 (c) Fails to take corrective action as required pursuant to
12 this section.

13 Sec. 6115. (1) After completion of the construction, alter-
14 ation, conversion, or remodeling and before the opening of a food
15 service establishment, the license applicant or license holder
16 shall notify the director of the completion, shall submit an
17 application for a license to operate the food service establish-
18 ment, and shall arrange for a preopening inspection.

19 (2) During the preopening inspection, the director shall
20 determine whether the food establishment was constructed,
21 altered, converted, or remodeled in accordance with the approved
22 plans and specifications.

23 (3) Local health departments may specify when requests for
24 preopening inspections are to be submitted.

25 Sec. 6117. Exhaust ventilation shall be designed, con-
26 structed, and installed in compliance with applicable state law.

1 Sec. 6119. (1) A ventilation balance report shall be
2 provided to the director for all new or remodeled ventilation
3 systems in food service establishments. The ventilation balance
4 report shall agree with the air quantities stipulated on the
5 approved plans and specifications for the installation.

6 (2) The total building exhaust and make-up air, if provided,
7 shall be balanced to within plus or minus 0.02-inch water gauge,
8 according to the approved plans.

9 Sec. 6121. All cooking equipment and exhaust systems shall
10 be at operating temperature during the ventilation test.
11 Containers of water shall be placed over ignited open flame burn-
12 ers to minimize the jet influence of open burners.

13 Sec. 6123. A smoke test shall be performed to determine
14 reasonable performance of the ventilation system.

15 Sec. 6125. The waste line from ice storage bins and ice
16 machines shall not be directly connected with another waste line
17 and shall be drained through an air gap.

18 Sec. 6127. The findings of the regulatory authority's
19 inspection of a food establishment shall be recorded on an
20 inspection report form approved by the department.

21 Sec. 6129. (1) The completed inspection report shall spec-
22 ify a period of time for correction of noted violations. The
23 license holder shall correct the violations within the time spec-
24 ified in the report.

25 (2) All violations which are marked as critical on the
26 inspection report form shall be corrected immediately unless

1 otherwise specified. The director shall conduct a follow-up
2 inspection to confirm corrections.

3 Sec. 6131. (1) Each commissary where mobile units with
4 retention tanks are serviced shall provide for the sanitary dis-
5 posal of liquid waste.

6 (2) The local health department shall approve locations for
7 the sanitary disposal of liquid waste.

8 Sec. 6133. The director may license as a temporary food
9 service establishment a mobile food establishment which does not
10 return to a commissary or service base after 24 hours but contin-
11 ues to operate at a fixed location.

12 Sec. 6135. (1) The name and address of the business operat-
13 ing a mobile food establishment shall be affixed to each side of
14 the exterior of the vehicle in letters not less than 3 inches
15 high and 3/8 of an inch wide and shall be in contrast to the
16 vehicle background color. When more than 1 mobile food service
17 establishment is operated by the same person, the director shall
18 assign a number to each establishment.

19 (2) A copy of limitations attached to the license of a
20 mobile food service establishment shall be carried on the mobile
21 food service establishment at all times.

22 (3) If a mobile food establishment is operating on a regu-
23 larly scheduled route, the local health department having juris-
24 diction may require the license holder to provide a copy of the
25 route schedule at the time the license is approved and every time
26 the route schedule is changed.

1 (4) A representative of the local health department or the
2 operator in the presence of the representative of the local
3 health department shall affix 2 decals provided by the department
4 on the mobile food establishment at the time the license is
5 issued. The decals shall be conspicuously displayed on each side
6 of the mobile food establishment so as to be visible when in
7 transit and while serving the public.

8 Sec. 6137. (1) To qualify for a special transitory food
9 unit license, an applicant shall allow a review and receive
10 approval of plans and specifications as specified in chapter VI.
11 This review and approval must include the menu and standard oper-
12 ating procedures for the unit.

13 (2) A special transitory food unit license holder shall do
14 all of the following:

15 (a) Keep a copy of the approved standard operating proce-
16 dures in the unit and available for review upon inspection by the
17 director.

18 (b) Operate in compliance with standard operation procedures
19 approved by the director.

20 (c) Before serving food within the jurisdiction of a local
21 health department, notify the local health department in writing
22 of each location in the jurisdiction at which food will be served
23 and the dates and hours of service. The license holder shall
24 mail the notice by first-class mail or deliver the notice not
25 less than 4 business days before any food is served or prepared
26 for serving within the jurisdiction of the local health
27 department.

1 (d) While in operation, request and receive 2 inspections
2 per licensing year. A local health department and the department
3 shall charge a fee of \$90.00 for such an inspection.

4 (e) Send a copy of all inspections reports to the regulatory
5 authority that approved the license within 30 days after
6 receipt.

7 (2) If a license holder fails to comply with any of the
8 requirements of this section or the food code, the food estab-
9 lishment is ineligible for licensure as a special transitory tem-
10 porary food establishment for the following licensing year and
11 must apply for temporary or other type of food establishment
12 licenses.

13 Sec. 6139. A food service establishment shall not store on
14 the premises or apply to any food prepared in the food service
15 establishment sulfiting agents.

16 Sec. 6141. (1) A food service establishment in which solid
17 foods are sold and consumed on the premises shall prominently
18 display a poster in the kitchen area of the food service estab-
19 lishment diagramming and explaining the antichoking techniques
20 safe for both adults and children approved by the department for
21 dislodging foreign obstacles caught in the throat of a choking
22 person.

23 (2) This section does not impose a duty upon the owners or
24 employees of a food service establishment to apply antichoking
25 techniques.

26 Sec. 6143. (1) A charitable, religious, fraternal, or other
27 nonprofit organization that prepares or serves wild game in

1 connection with its meetings or as part of a fund-raising event
2 or that prepares or serves wild game to indigent persons free of
3 charge is not required to obtain the wild game from a
4 department-approved source.

5 (2) If a charitable, religious, fraternal, or other non-
6 profit organization prepares or serves wild game that is not from
7 a department-approved source in connection with its meetings or a
8 part of a fund-raising event or prepares or serves wild game that
9 is not from a department-approved source to indigent persons free
10 of charge, the organization shall post at the entrance to the
11 dining area a sign bearing the following message: "The wild game
12 served at this facility has not been subject to state or federal
13 inspection." The words of the message shall be written or
14 printed in letters not less than 3/4 of an inch high and 3/4 of
15 an inch wide and readable.

16 Sec. 6145. The manufacturing, processing, or freezing of
17 frozen desserts as defined in section 2 of the frozen desserts
18 act of 1968, 1968 PA 298, MCL 288.322, in food service establish-
19 ments licensed pursuant to this act, which frozen desserts are
20 intended only for use in the soft form by patrons, guests,
21 patients, or employees, shall comply with the standards of this
22 act and rules promulgated pursuant to this act.

23 Sec. 6147. If a food service establishment is affected by
24 fire, flooding, accidents, explosions, or other disaster that may
25 create an imminent or substantial hazard, all food service opera-
26 tions shall cease. The licensee shall immediately report the
27 disaster to the local health department and request an evaluation

1 of the food service establishment to determine the effect of the
2 disaster on the operation of the establishment.

3 Sec. 6149. (1) To satisfy section 3-603.11 of the food
4 code, the following must be met:

5 (a) A disclosure or reminder, or both, shall be made by
6 effective written means.

7 (b) Disclosure that an item contains raw or undercooked food
8 of animal origin by either or both of the following:

9 (i) Items are described to include the disclosure, such as
10 "oysters on the half shell (raw oysters)", "raw-egg caesar
11 salad", and "hamburgers (can be cooked to order)".

12 (ii) Items are asterisked with a footnote that states the
13 items are served raw or undercooked, contain, or may contain raw
14 or undercooked ingredients.

15 (c) A reminder of the increased risk associated with eating
16 such foods in raw or undercooked form. The reminder is satisfied
17 when items requiring disclosure are asterisked to a footnote that
18 states 1 of the following:

19 (i) "Regarding the safety of these items, written informa-
20 tion is available on request."

21 (ii) "When eating out or cooking at home, thorough cooking
22 of foods of animal origin reduces the risk of foodborne illness.
23 Contact your physician or public health professional for further
24 information."

25 (iii) "Consuming raw or undercooked meats, poultry, seafood,
26 shellfish, or eggs may increase your risk of foodborne
27 illness."

1 (iv) "Consuming raw or undercooked meats, poultry, seafood,
2 shellfish, or eggs may increase your risk of foodborne illness,
3 especially if you have certain medical conditions."

4 (2) As used in this section, "effective written means" means
5 the information is displayed in a manner that is noticeable to be
6 read by an interested person actively seeking this information.
7 It does not include effectiveness in changing behavior, effec-
8 tiveness in educating the target audience, or the effectiveness
9 in being read. For purposes of this section, the opinion of the
10 person in charge on the effectiveness should be presumed to be
11 accurate unless there is a factual reason to believe otherwise.

12 Sec. 6151. (1) The following requirements are prerequisites
13 for a food establishment implementing alternative practices and
14 procedures to no bare-hand contact with ready-to-eat food, as
15 provided under section 3-301.11(B) of the food code:

16 (a) The operator documents the reasons the food establish-
17 ment is unable to comply with the food code requirement in sec-
18 tion 3-301.11(B).

19 (b) The establishment meets the requirements of the food
20 code that are a prerequisite to consideration of alternatives to
21 no bare-hand contact with ready-to-eat food, particularly those
22 relating to demonstration of knowledge, duties of the person in
23 charge, employee health, personal cleanliness, and hygienic
24 practices.

25 (c) The establishment has a written alternative policy and
26 procedure that contain all of the following:

1 (i) The public health hazard associated with bare-hand
2 contact specific to the food establishment operation is
3 identified and understood.

4 (ii) Identification of ready-to-eat foods that will be con-
5 tacted with bare hands and establishment of procedures and prac-
6 tices so that employees wash their hands before returning to
7 their work station, preventing cross-contamination from raw and
8 ready-to-eat food.

9 (iii) Institution of an effective training program for food
10 employees that emphasizes not working when ill with any symptoms
11 of foodborne illness and explains food hygienic practices, proper
12 handwashing procedures, and safe food preparation procedures.
13 The programs shall include a documented training plan that speci-
14 fies how management responsibility for training has been desig-
15 nated, training program content, and the frequency of periodic
16 refresher sessions.

17 (2) The alternative includes monitoring, documentation, and
18 verification to ensure the practices and procedures are
19 followed. Corrective actions need to be predetermined for situa-
20 tions where the practices and procedures are not followed, such
21 as an ill employee is found preparing food.

22 (3) Documentation required by this section shall be readily
23 available at the food establishment at all times for use by the
24 person in charge and review by the director.

25 CHAPTER VII FOOD AND PROCESSING STANDARDS

1 Sec. 7101. Subject to section 1119(3), a food processing
2 plant shall comply with the regulations of the food and drug
3 administration in 21 C.F.R. part 110, except for the following:

4 (a) Refrigerated potentially hazardous food shall be stored
5 at 4.4 degrees centigrade (40 degrees Fahrenheit) or below.

6 (b) Frozen food shall be stored at 0 degrees centigrade (0
7 degrees Fahrenheit) or below.

8 Sec. 7103. (1) All thermally processed, low-acid foods that
9 are packaged in hermetically sealed containers shall be processed
10 in a licensed commercial food establishment.

11 (2) All processors of acidified, low-acid foods packaged in
12 hermetically sealed containers shall comply with the regulations
13 of the U.S. food and drug administration in 21 C.F.R. part 114.

14 (3) All thermally processed, low-acid foods that are pack-
15 aged in hermetically sealed containers shall comply with the reg-
16 ulations of the U.S. food and drug administration in 21
17 C.F.R. part 113.

18 (4) Hermetically sealed packages shall be handled to main-
19 tain product and container integrity.

20 Sec. 7105. The requirement that a processor of smoked fish
21 obtain a variance under the smoked fish rules is waived if the
22 processor demonstrates compliance with 21 C.F.R. part 123, the
23 "seafood HACCP plan".

24 Sec. 7107. (1) Bottled water shall be obtained from a water
25 supply approved by the department of environmental quality and in
26 compliance with the safe drinking water act, 1976 PA 399,
27 MCL 325.1001 to 325.1023.

1 (2) A copy of the current sanitary survey report from the
2 department of environmental quality under the safe drinking water
3 act, 1976 PA 399, MCL 325.1001 to 325.1023, and the water sample
4 results required under that act shall be available at the
5 bottling plant for the director to demonstrate approval of the
6 source and supply of the water.

7 (3) Bottled water shall not contain any substance in excess
8 of the maximum contaminant level adopted for drinking water under
9 the safe drinking water act, 1976 PA 399, MCL 325.1001 to
10 325.1023.

11 (4) A water dispensing machine shall be clearly and conspic-
12 uously labeled with the declaration of identity of the product
13 dispensed.

14 Sec. 7109. A person shall not operate a bottled water plant
15 or bottle water for the purpose of sale or distribution in this
16 state without first demonstrating to the department that the
17 source, bottling facility, treatment and bottling practices
18 comply with 21 C.F.R. part 129, and product water meets the
19 requirements of this chapter.

20 Sec. 7111. Packaged food shall comply with standard of
21 identity requirements in 21 C.F.R. parts 131 to 169 and the defi-
22 nitions and standards of identity or composition contained in 9
23 C.F.R. part 319, and the general requirements in 21 C.F.R. part
24 130 and subpart A of 9 C.F.R. part 319 except as modified or
25 rejected by this act or rules promulgated under this act.

26 Sec. 7113. As used in this chapter:

1 (a) "Added fat" means the addition of fat tissue originating
2 from portions consisting of less than 12% muscle tissue in each
3 portion.

4 (b) "Added water or ice" means greater moisture content than
5 normally found in meat.

6 (c) "Artificial coloring" means coloring containing any dye
7 or pigment which was manufactured by a process of synthesis or
8 other similar artifice or by extraction of a natural dye or pig-
9 ment from a plant or other material from which the dye or pigment
10 was formed.

11 (d) "Artificial flavoring" means any flavoring containing
12 any sapid or aromatic constituent manufactured by synthesis or
13 similar process.

14 (e) "Binders" means food and nonfood substances used as an
15 ingredient in comminuted meats for binding, stabilizing, thicken-
16 ing, or maintaining viscosity of the product.

17 (f) "By-products or variety meats" means hearts, livers,
18 brains, tongues, tripe, stomach, lungs, melts, eyes, weasand
19 meats, head meat, cheek meat, salivary glands, udder, lips, ears,
20 snouts, skin, feet, spleens, slaughterhouse by-products, spinal
21 cords, cracklings or crackling meal, packinghouse by-products,
22 processing plant by-products, partially defatted fatty tissues,
23 and partially defatted chopped meat.

24 (g) "Comminuted" means chopped, diced, flaked, ground, or
25 otherwise reduced to minute particles.

1 (h) "Extenders" means food substances used as an ingredient
2 in comminuted meats primarily for replacement of meat
3 ingredients.

4 (i) "Fat" means the quantity of adipose tissue determined by
5 chemical analysis.

6 (j) "Fresh meat" means meat that has undergone no cooking,
7 heating, or other processing except boning, cutting, comminuting,
8 or freezing.

9 (k) "Lamb" means meat derived from sheep less than 1 year of
10 age.

11 (l) "Meat" means the edible part of clean, sound striated
12 muscle of cattle, swine, sheep, deer, goat, turkey, or chicken
13 slaughtered in compliance with all applicable laws, with or with-
14 out the accompanying and overlying fat, and sinew, nerve, gland,
15 and blood vessels which normally accompany the muscle tissues and
16 which are not separated from it in the process of dressing.

17 (m) "Skeletal meat" means the meat that is attached to a
18 part of the skeleton including head and cheek meat.

19 (n) "Veal" means meat derived from a calf not more than 1
20 year of age.

21 Sec. 7115. Sausage consists only of skeletal meat either
22 fresh, cured, salted, pickled, or smoked. Sausage may contain
23 the following:

24 (a) Salt or spice, sodium or potassium nitrate, ascorbic
25 acid that comply with applicable regulations of the United States
26 department of agriculture food safety inspection service or any
27 other curing agents determined appropriate by the department

1 pursuant to rules promulgated under this act. As used in this
2 subdivision, "curing agent" means any substance added to meat to
3 cause or enhance preservation of the meat product.

4 (b) Added edible animal fat from the animals specified, eggs
5 or egg products, chives, tomatoes, parsley, peppers, onions,
6 garlic, celery, seasoning, or other natural flavoring, honey,
7 syrup, sugar, pure refined dextrose, or subsequent cooking or
8 smoking.

9 (c) Not more than 3-1/2% by weight nonfat dry milk, dry
10 whole milk, or calcium-reduced milk if it is declared in conjunc-
11 tion with the product name.

12 (d) Fruits, vegetables, or nuts, or a combination thereof,
13 if the name of the product is so qualified.

14 (e) The total percentage of moisture in the finished product
15 shall not exceed 4 times the percentage of protein, which shall
16 not be less than 12%. The protein content requirement shall not
17 apply to pork sausage, breakfast sausage, or roasted sausage but
18 the finished product shall contain not more than 50% of fat. To
19 facilitate chopping or mixing, water or ice may be used in
20 uncooked sausage in an amount not to exceed 3% of the total
21 ingredients.

22 (f) Fresh and fresh frozen sausage, smoked and unsmoked dry
23 sausage, may contain butylated hydroxyanisole, butylated hydroxy-
24 toluene or propyl gallate, or a combination of these antioxi-
25 dants, with or without citric acid, in amounts not to exceed
26 specifications established under 9 C.F.R. 318.7 and 9 C.F.R. part
27 319. When such antioxidants are added, the label on the product

1 shall declare the presence of antioxidants in the manner required
2 by the United States department of agriculture meat inspection
3 service.

4 (g) Sausage shall not contain any extenders, artificial fla-
5 vors, artificial color, binders, excess added water or ice, boric
6 acid or borates, sulphites, sulfur dioxide, sulphurous acid, or
7 any other harmful preservative, by-products, or variety meats.
8 Extenders necessary to produce low fat products may be permitted
9 as described in rules promulgated under this act. No other parts
10 of the animal or any other substance excepting as above specified
11 shall be permitted in sausage.

12 (h) Harmless lactic acid bacterial starters may be used in
13 an amount not to exceed 1/2 of 1%. When used, the harmless bac-
14 terial starter shall be included in the list of ingredients in
15 the order of its predominance.

16 (i) The following products are considered to be sausage,
17 whether processed or inserted in either natural or artificial
18 casings or other containers: wieners, bologna, ring bologna,
19 knackwurst, bratwurst, roasted sausage, breakfast sausage, pork
20 sausage, chicken sausage, turkey sausage, leona, beer salami,
21 cooked salami, polish sausage, minced luncheon, kielbasa, brock-
22 wurst, all varieties of dry or semi-dry sausage, and other meat
23 food products prepared in sausage form and excluding loaves,
24 liver products, headcheese, sulze, blood sausage, potato sausage,
25 kiszka, tongue sausage, and New York or New England pressed
26 luncheon.

1 (j) "Fresh pork sausage", "Polish sausage", "fresh
2 kielbasa", and "fresh country-style sausage" are sausages
3 prepared from fresh pork meat.

4 (k) "Italian-style sausage" shall be uncured, unsmoked, and
5 contain at least 85% meat or meat and fat with no more than 35%
6 fat. It may contain red and green pepper, onion, and garlic.
7 Italian sausage shall be prepared from fresh pork meat.

8 (l) "Fresh beef sausage" is prepared with fresh beef meat
9 and shall not contain more than 30% fat.

10 (m) "Poultry-meat sausage" shall be made from fresh chicken
11 and turkey meat containing the natural proportions of light and
12 dark meat unless otherwise designated. The name shall be identi-
13 fied by the species contained if the product contains all its
14 meat from 1 species. It shall not contain more than 30% fat.

15 (n) "Venison sausage" shall be made from the meat of deer
16 from approved sources. A person shall not offer for sale, sell,
17 or expose for sale any other product described as venison
18 sausage. Fat of another species and approved source may be added
19 to venison sausage.

20 (o) Sausage containing wild game and made on commercial
21 order shall be labeled "not for sale". Wild game from more than
22 1 owner shall not be mixed into sausage unless a licensed proces-
23 sor butchered all the wild game. Processors shall reject any
24 carcass that shows evidence of spoilage or contamination. Wild
25 game and wild-game product and processing times shall be kept
26 separate from other meat and meat processing, including, but not
27 limited to, storage in separate or structurally-partitioned

1 coolers. Food contact surfaces shall be thoroughly washed and
2 sanitized after the processing of wild game and before the
3 resumption of any other processing.

4 Sec. 7117. Hamburger or ground beef consists of fresh beef
5 meat that has been comminuted and shall be identified as either
6 hamburger or ground beef. Hamburger shall not contain more than
7 30% of fat. Ground beef shall meet the same requirements as ham-
8 burger except that it shall not contain more than 20% of fat.
9 Monosodium glutamate may be added if declared. Hamburger may
10 contain added beef fat, but ground beef shall not contain added
11 fat. Ground beef and hamburger shall not contain added water or
12 ice. Only ground beef may be qualified by the name of a particu-
13 lar cut of meat, such as "ground beef round" or "ground beef
14 chuck". If so qualified, it shall consist entirely of meat from
15 the particular meat cut and be certified as that specific cut by
16 a method of certification as the director may establish by rule.
17 Hamburger or ground beef shall not contain by-products or variety
18 meats, binders, extenders, artificial color, vegetable coloring,
19 chemical preservative, boric acid or borates, sulphites, sulfur
20 dioxide, or sulphurous acid. No other parts of the animal or any
21 other substance except as otherwise provided in this subsection
22 is permitted in hamburger or ground beef.

23 Sec. 7119. Other comminuted meat food products, including
24 nonspecific loaves and liver products, headcheese, blood sausage,
25 kiska, tongue sausage, chili con carne with beans, or any other
26 meat food products that may be allowed, shall be produced in

1 compliance with applicable regulations of the United States
2 department of agriculture meat inspection service.

3 Sec. 7121. Chili or chili con carne shall consist of not
4 less than 40% of meat computed on the weight of the fresh meat
5 and shall not contain by-products and variety meats except that
6 head meat, cheek meat, and heart meat, exclusive of the heart
7 cap, may be used to the extent of 25% of the meat ingredients
8 with specific declaration on the label. The mixture may contain
9 not more than 8%, individually or collectively, of cereal, vege-
10 table starch, vegetable flour, soy flour, soy protein concen-
11 trate, isolated soy protein, dried milk, calcium reduced dry skim
12 milk, nonfat dry milk solids, or seasoning. Chili con carne
13 shall not contain binders, artificial color, vegetable coloring,
14 chemical preservative, boric acid or borates, sulphites, sulfur
15 dioxide, or sulphurous acid. No other parts of the animal are
16 permitted in chili con carne.

17 Sec. 7123. Meat loaf consists of comminuted meat, processed
18 in the form of a loaf, containing not less than 65% meat. Meat
19 loaf mix consists of meat loaf sold in bulk uncooked form. Meat
20 loaf may contain salt, seasoning, sodium or potassium nitrate,
21 ascorbic acid, or the salts thereof, sodium or potassium nitrite,
22 cereal vegetables, vegetable protein, nonfat dry milk solids, soy
23 flour, eggs or egg products, macaroni, cheese, condiments, nuts,
24 fruits, or gelatin. Binders and extenders shall not exceed 12%
25 of the product. To facilitate chopping or mixing, water or ice
26 may be used in an amount not to exceed 3% of the total
27 ingredients. Meat loaf shall not contain by-products of variety

1 meats, artificial flavors or color, vegetable coloring, chemical
2 preservative, boric acid or borates, sulfur dioxide, sulphites,
3 or sulphurous acid. No other substance is permitted in meat loaf
4 or meat loaf mix, except as otherwise provided in this section.

5 Sec. 7125. Ground lamb, chicken, turkey, and veal shall not
6 contain any added water or ice, artificial flavoring, by-products
7 or variety meats, binders, extenders, artificial color, vegetable
8 coloring, or chemical preservatives. No other parts of the
9 animal or any other substance shall be permitted except as
10 follows:

11 (a) Ground lamb shall consist of comminuted fresh lamb meat,
12 with or without added lamb fat, and shall not contain more than
13 25% fat.

14 (b) Ground chicken shall consist of comminuted fresh chicken
15 meat, with or without added chicken fat, and shall not contain
16 more than 15% fat.

17 (c) Ground turkey shall consist of comminuted fresh turkey
18 meat, with or without added turkey fat, and shall not contain
19 more than 15% fat.

20 (d) Ground veal shall consist of comminuted fresh veal meat,
21 with or without added veal fat, and shall not contain more than
22 20% fat.

23 (e) Ground pork shall consist of comminuted fresh pork with
24 or without the addition of pork fat as such and shall not contain
25 more than 30% fat. Ground pork shall not contain extenders,
26 binders, variety meats, by-products, added water or ice,
27 artificial flavor or color, vegetable coloring, chemical

1 preservative, boric acid or borates, sulphites, sulfur dioxide,
2 or sulphurous acid. No other parts of the animal or any other
3 substance is permitted in ground pork.

4 Sec. 7127. "Meat pattie" is a product prepared in pattie
5 form. "Meat pattie mix" is a product sold in bulk uncooked
6 form. Meat patties and meat pattie mix are a mixture of fresh
7 comminuted meat with or without the addition of fat and season-
8 ings and containing not less than 65% meat. Binders and
9 extenders may be used up to 12% of the finished product. Meat
10 pattie and meat pattie mix shall not contain artificial color or
11 flavor, by-products or variety meats, added water or ice, or more
12 than 30% fat. Meat patties and meat pattie mix with fruits, veg-
13 etables, nuts, or mushrooms, either as a coating or ingredient,
14 are permitted if labeled and advertised as "meat patties with
15 _____", inserting the common or usual name of the addition.

16 Sec. 7129. (1) If a food is subject to a standard estab-
17 lished under this chapter, it shall be identified by the name
18 required by that standard. If no standard applies, the product
19 shall be identified by its common or usual name. If no common or
20 usual name exists, the product shall be identified by an appro-
21 priately descriptive name that is not misleading and that accu-
22 rately identifies or describes, in as simple and direct terms as
23 possible, the basic nature of the food and its characterizing
24 ingredients or properties. A product manufactured or sold under
25 the provisions of this act, which is sold in closed or sealed
26 packages shall bear a complete label. The label shall bear the
27 true name of the product as defined in this act, an ingredient

1 statement if the product contains more than 1 ingredient, the net
2 weight of the product, and the name and address of the
3 manufacturer.

4 (2) Products sold from bulk retail displays shall bear a
5 sign or placard containing the true and approved name of the
6 product. If the product contains more than 1 ingredient, an
7 ingredient statement shall be placarded, posted, or otherwise
8 available for the customer in written form.

9 (3) Meat products using antioxidants shall indicate on the
10 label, or in the absence of a label an adjacent placard, their
11 presence and purpose.

12 (4) Meat products containing monosodium glutamate, hydro-
13 lyzed vegetable protein, or any other source of monosodium gluta-
14 mate shall indicate on the label or, in the absence of a label,
15 an adjacent placard in its presence.

16 (5) The meat ingredients in a meat product that specifies 1
17 type of meat in its name, such as ham loaf, pork loaf, veal pat-
18 ties, or turkey sausage, shall be entirely from the species indi-
19 cated in the product name. The meat in a meat product that spec-
20 ifies more than 1 type of meat in its name, such as beef and
21 turkey sausage, shall be entirely from the types indicated, and
22 shall contain at least 20% of each meat. A meat product that
23 contains a type of meat consisting of less than 20% of that meat
24 may be labeled as "(product) _____ added" or "product with
25 _____", inserting the common name of that meat. Sausage labeled
26 or advertised as all meat or all beef shall not contain any
27 nonfat dry milk solids or dry whole milk.

1 (6) All required words and numbers shall be legible to
2 potential customers.

3 Sec. 7131. A person shall not sell or offer for sale a pro-
4 duct that is not manufactured to the ingredient standards of this
5 act unless the federal government legally preempts Michigan's
6 ingredient standards. In that case, federally inspected meats
7 not meeting the ingredient requirements of this act shall be
8 identified as federally inspected on intact, sealed packaging
9 from the federally inspected location.

10 Sec. 7133. (1) All products manufactured under terms of
11 this chapter may be sold in colored artificial casings or con-
12 tainer only if they are in complete compliance with all applica-
13 ble regulations of the United States department of agriculture.
14 These products shall not be sold in colored natural casings.

15 (2) In addition to the requirements of section 1105(a), any
16 product within the purview of this section shall be considered
17 adulterated if it is the product of an animal which has died oth-
18 erwise than by slaughter.

19 Sec. 7135. (1) Temporary permits granted for interstate
20 shipment of experimental packs of food varying from the require-
21 ments of federal definitions and standards of identity are auto-
22 matically effective in this state under the conditions provided
23 in such permits.

24 (2) The department may issue additional temporary permits
25 where they are necessary to the completion or conclusiveness of
26 an otherwise adequate investigation and where the interests of
27 consumers are safeguarded.

1 (3) Such temporary permits are subject to the terms and
2 conditions the department may prescribe by rule.

3 Sec. 7137. Food may not contain unapproved food additives
4 or additives that exceed amounts specified in 21 C.F.R. parts 170
5 to 180 relating to food additives, generally recognized as safe
6 or prior sanctioned substances that exceed amounts specified in
7 21 C.F.R. parts 181 to 186, substances that exceed amounts speci-
8 fied in 9 C.F.R. 318.7, or pesticide residues that exceed provi-
9 sions specified in 40 C.F.R. part 185.

10 CHAPTER VIII LABELING AND ADVERTISING

11 Sec. 8101. Packaged food shall be labeled as specified in
12 21 C.F.R. part 101, 9 C.F.R. part 317, and subpart N of 9
13 C.F.R. part 381, and as specified under sections 3-202.17 and
14 3-202.18 of the food code.

15 Sec. 8103. (1) All bulk displays of unpackaged food and
16 drink offered for sale at a retail food establishment, including
17 salad bars, which contain a detectable amount of sulfiting agents
18 shall be prominently placarded with a sign which is clearly visi-
19 ble to the customer and which declares either of the following
20 statements:

21 (a) (NAME OF PRODUCT)

22 THIS PRODUCT CONTAINS A SULFITING AGENT. SULFITES MAY CAUSE
23 AN ALLERGIC REACTION IN CERTAIN PERSONS, PARTICULARLY
24 ASTHMATICS.

25 (b) (NAME OF PRODUCT) -----, the blank to be filled in with
26 the name of the sulfiting agent, and if added as a preservative,
27 a separate description of its function.

1 (2) All letters on the sign shall be of the same type style
2 and color, not less than 1/4 inch in height, and of a color in
3 clear contrast to the background. A smaller type size may be
4 permitted if the department determines space is not available for
5 the placard and the largest type size possible is used. If a
6 retail establishment has multiple bins of sulfite-treated food
7 which are segregated, 1 placard listing all of the applicable
8 products is acceptable if it is placed at approximately eye level
9 over the bins.

10 Sec. 8105. (1) A person shall not do any of the following:

11 (a) Make, publish, disseminate, circulate, or place before
12 the public any advertisement containing any assertion, represen-
13 tation, or statement which is untrue, deceptive, or misleading or
14 falsely represents the kind, classification, grade, or quality of
15 meat.

16 (b) Use any term of quality without using or having for sale
17 the quality of meat advertised or offered for sale.

18 (c) Use the term "USDA" unless the official grade is also
19 designated.

20 (d) Designate or use any brand name of a company unless the
21 meat so advertised or displayed for sale is of a quality which
22 the use or designation of the brand name of such company would
23 reasonably indicate.

24 (2) A person shall not advertise or display for sale any of
25 the following:

1 (a) Any meat of the ovine species that is 2 years old or
2 over as "yearling" or "lamb". Such meat shall be clearly
3 designated "mutton".

4 (b) Any meat described by the use of the words "prime",
5 "choice", or "good" unless such meat advertised for sale actually
6 bears the "USDA" federal stamp designating such grade or is of
7 equal quality as the federal grade would designate.

8 (c) Any ham unless the advertisement or display states
9 whether the ham is skinned or regular.

10 (d) Any ham portion described by the use of the words
11 "one-half" or "half ham" that has had a center slice removed.

12 (e) Any pork shoulder described as "ham".

13 (f) Any meat or meat product which has been branded or
14 marked as imitation by a manufacturer or processor unless the
15 advertisement or display clearly states that such meat or meat
16 product is an imitation.

17 (3) A person shall not substitute in any sale any inferior
18 or cheaper cut of meat without informing the purchaser that such
19 substitution is being made.

20 (4) A person shall not keep or display any canned meats or
21 canned meat products at a temperature exceeding 6° Centigrade
22 (41° Fahrenheit) if the label of such meats or meat products
23 specifies that they shall be kept under refrigeration.

24 (5) Whenever it becomes necessary for the purposes of this
25 act to procure a sample or samples of meat or meat products, the
26 person in charge of the place where inspection is made must

1 permit the sample or samples to be obtained upon being tendered
2 the advertised or offered price of the item being procured.

3 Sec. 8107. (1) As used in this section:

4 (a) "Date" means the recommended last day of sale.

5 (b) "Perishable food" means any food in package form which
6 the manufacturer, packer, or retailer, in conjunction with the
7 department, determines as having a significant risk of spoilage,
8 loss of value, or loss of palatability within 90 days of the date
9 of packaging.

10 (c) "Prepackaged" means packaged prior to being displayed or
11 offered for sale.

12 (2) A retail food establishment shall not sell or offer for
13 sale a prepackaged perishable food unless there is clearly and
14 conspicuously stamped upon or attached to the package a date
15 identified by month and day except that bakery products with a
16 shelf life of 7 days or less may be dated with a day of the week
17 or an abbreviation.

18 (3) The date may be displayed with or without explanatory
19 terms. If explanatory terms are used, such terms shall be
20 limited to 1 of the following: "Sell by _____", "Sell before
21 _____", "Last date of sale _____", "Recommended last date of sale
22 _____", or "Recommended sale date _____". Other meaningful terms
23 may be used if specifically approved by the department.

24 (4) This section does not prohibit the sale of food after
25 the date if the product is wholesome and sound and is clearly
26 identified as having passed the date.

1 (5) The retail or final seller is responsible for the proper
2 advertisement of perishable food sold after the date.

3 (6) A person who prepackages perishable food shall do all of
4 the following:

5 (a) Establish a meaningful date that takes into considera-
6 tion the food quality and characteristics of the food, its pack-
7 aging, and customary conditions encountered in commercial
8 channels.

9 (b) Allow a reasonable period after the date for consumption
10 of the food without physical spoilage.

11 (c) Keep a record of the method of determination of the
12 date.

13 (7) A retailer who purchases prepackaged perishable food
14 may, upon written agreement with the person prepackaging such
15 food, determine, identify, and be responsible for the date placed
16 on, or attached to, each package of such food.

17 (8) The date shall not be altered. A person shall not
18 rewrap or repackage a perishable food, in its original form and
19 texture, with a date on the package different from the original.

20 (9) The date shall be calculated to allow a reasonable
21 period for the subsequent consumption of the food, but shall not
22 allow for a period which would result in a health nuisance as
23 described in section 2107.

24 (10) This section does not apply to fresh fruits and vegeta-
25 bles, canned food, and frozen food, nor to milk and milk products
26 dated in accordance with section 1 of the fluid milk act of 1965,
27 1965 PA 233, MCL 288.21.

1 (11) The requirements of this section do not apply to any of
2 the following:

3 (a) An individually packaged food item that is a component
4 of a larger food item if the larger food item is identified with
5 a date the same as or earlier than the date of that component.

6 (b) Perishable foods packaged under, and in compliance with,
7 federal laws and regulations, if providing information equal to
8 or greater than the information required by this section.

9 (c) Smoked fish under the smoked fish rules.

10 Sec. 8109. All products that are sold or otherwise distrib-
11 uted from a manufacturing, processing, packing, or repacking
12 activity shall be marked with a meaningful, visible, and legible
13 code to enable positive lot identification and to facilitate,
14 where necessary, the segregation of specific lots that may have
15 become contaminated or are otherwise unfit for their intended
16 use. Invisible coding is not considered meaningful coding. The
17 coding format shall be provided to the department upon request.
18 Coding records shall be retained for a period of time that
19 exceeds the shelf life of the product or for 2 years, whichever
20 is shorter.

21 Sec. 8111. (1) A person shall not manufacture for sale,
22 offer or expose for sale, sell or deliver, or have in his or her
23 possession with intent to sell or deliver, any vinegar not in
24 compliance with the provisions of this chapter.

25 (2) The word "vinegar" as used in this section is limited to
26 a water solution of acetic acid derived by the alcoholic and
27 subsequent acetous fermentation of fruits, grain, vegetables,

1 sugar, or syrups and if not distilled must carry in solution the
2 extractive matter derived solely from the substances indicated on
3 the label as its source.

4 (3) Vinegar shall not be sold or offered for sale as apple
5 or cider vinegar which is not the legitimate product of pure
6 apple juice. The term "cider vinegar" or "apple cider vinegar"
7 as used in this section means vinegar derived by the alcoholic
8 and subsequent acetous fermentation of the expressed juice of
9 apples, the acidity, solids, and ash of which have been derived
10 exclusively from apples and which contains not less than 4% of
11 absolute acetic acid. Cider vinegar which, during the course of
12 manufacture, has developed in excess of 4% acetic acid may be
13 reduced to a strength of not less than 4%, and cider vinegar so
14 reduced is not regarded as adulterated.

15 (4) Every manufacturer or producer of cider vinegar shall
16 plainly label on the head of the cask, barrel, keg, or other con-
17 tainer of such vinegar, his or her name, place of business, and
18 the words "cider vinegar" or "apple cider vinegar". A person
19 shall not mark or label as cider vinegar or apple cider vinegar
20 any package containing that which is not cider vinegar. Any vin-
21 egar sold or offered for sale shall be marked or labeled plainly
22 upon the package or container from which it is sold and also on
23 the original package or container in which it is sold or deliv-
24 ered, in a manner that shows its true character and source.

25 (5) Vinegar sold or offered for sale as sugar vinegar shall
26 be strictly and distinctly fermented from sucrose, molasses,
27 refiner's syrup, or nutritive carbohydrate sweetener.

1 (6) Vinegar sold or offered for sale as malt vinegar shall
2 be strictly and distinctly fermented from malted barley, cereals,
3 or a concentrate of malted barley or cereals, which has been
4 enzymatically converted by the malting process.

5 (7) Vinegar shall not be sold or offered for sale in which
6 foreign substances, other than substances permitted under this
7 act, drugs, or acids have been introduced. Vinegar shall not
8 contain any artificial color except as permitted under this act.
9 Vinegar shall contain not less than 4 grams of acetic acid per
10 100 cubic centimeters at 20° Centigrade. If vinegar contains any
11 artificial substance, except as permitted under this act, or con-
12 tains less than the required amount of acidity, it shall be con-
13 sidered to be adulterated.

14 (8) Vinegar made by fermentation and oxidation of the juice
15 of grapes or the acetous fermentation of wine, without the inter-
16 vention of distillation, shall be labeled with the name of the
17 fruit or substance from which the vinegar has been made.

18 (9) Vinegar made by acetous fermentation of dilute distilled
19 ethyl alcohol shall be labeled "distilled vinegar", "white dis-
20 tilled vinegar", "distilled white vinegar", or "white vinegar".
21 Vinegar, except flavored vinegar and blended vinegar, made in
22 part from distilled vinegar shall be conspicuously labeled
23 "distilled vinegar" and shall have the component vinegars
24 declared in the ingredient statement.

25 (10) Flavored vinegar shall be labeled "_____ flavored
26 vinegar". The space shall be filled in with the name of the
27 characteristic flavor. All of the words in the name shall appear

1 on a background of contrasting color. The flavor name shall be
2 in letters at least 1/2 the size of the letters in the word
3 "vinegar". The word "flavored" shall be in letters at least 1/2
4 the size of the letters in the flavor name. All of the ingredi-
5 ents of flavored vinegar shall be listed on the label in order of
6 descending predominance.

7 (11) Blended vinegar shall be labeled "blended vinegar" or
8 "_____ vinegar", the blank to be filled in with a name which
9 accurately describes the nature of function of the vinegar. All
10 of the words in the name shall be in letters on a background of
11 contrasting color.

12 (12) As used in this section:

13 (a) "Blended vinegar" means the acetous fermentation of a
14 blend of raw materials or a blend of 2 or more of the vinegars
15 defined in this chapter but not including apple cider vinegar.

16 (b) "Flavored vinegar" means vinegar to which garlic, shall-
17 lots, chili, tarragon, herbs, or spices, or the extract of any of
18 those substances, is added to impart a characteristic flavor.

19 Enacting section 1. This amendatory act does not take
20 effect unless Senate Bill No. _____ or House Bill No. 5195
21 (request no. 02692'99 a) of the 90th Legislature is enacted into
22 law.